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IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF

Report submitted by Mr. Angelo Vidal d'Almeida Ribeiro, Special Rapporteur appointed in accordance with Commission on Human Rights resolution 1986/20 of 10 March 1986

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Introduction

1. At its forty-second session, the Commission on Human Rights decided, in resolution 1986/20 of 10 March 1986, to appoint for one year a special rapporteur to examine incidents and governmental actions in all parts of the world which were inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and to recommend remedial measures for such situations.

2. Pursuant to that resolution the Special Rapporteur submitted a first report to the Commission at its forty-third session (E/CN.4/1987/35). His mandate was extended for one year by Commission on Human Rights resolution 1987/15 of 4 March 1987 adopted at that session.

3. At its forty-fourth session, the Commission had before it a further report by the Special Rapporteur (E/CN.4/1988/45 and Add.1 and Corr.1) and it decided, by resolution 1988/55, to extend the Special Rapporteur's mandate for two years. At its forty-fifth session, the Special Rapporteur submitted his third report (E/CN.4/1989/44) to the Commission.

4. At its forty-sixth session, the Commission on Human Rights considered the Special Rapporteur's fourth report (E/CN.4/1990/46) submitted in conformity with the provisions of resolution 1989/44. During that session, the Commission decided, by resolution 1990/27, to extend his mandate for a further two years. At its forty-seventh session, the Special Rapporteur submitted his fifth report (E/CN.4/1991/56) to the Commission.

5. The report which follows is submitted to the Commission on Human Rights at its present session in accordance with the provisions of paragraph 14 of resolution 1991/48 of 5 March 1991.

6. In chapter I, the Special Rapporteur recalls the terms of his mandate and their interpretation, and describes the working methods he used in preparing this sixth report.

7. Chapters II and III reflect the activities of the Special Rapporteur during the present reporting period. Chapter II contains allegations duly transmitted to the Governments concerned regarding situations which were said to depart from the provisions of the Declaration as well as the comments formulated in that regard by Governments. In order to be able to submit his report in time for the forty-eighth session of the Commission on Human Rights, the Special Rapporteur has not been able to take account of communications received after 16 December 1991. Should his mandate be renewed, they will be included in the report which he would submit to the Commission at its forty-ninth session, in 1993.

8. Chapter III contains answers received from Governments to a questionnaire addressed by the Special Rapporteur to all States on 25 July 1990 for the purpose of shedding light on the way in which certain problems of which he had been seized in earlier years are treated at the legislative level. The Special Rapporteur has already included the answers to the questionnaire from Governments which had arrived prior to the finalization of his report to the

Commission on Human Rights at its forty-seventh session in document E/CN.4/1991/56. In that report, he stated his intention to make an overall analysis of the replies received in his report to the Commission at its forty-eighth session. Therefore, chapter III also contains the Special Rapporteur's analysis of all the answers to the questionnaire given by Governments at the time of the finalization of the present report.

9. Lastly, in chapter IV the Special Rapporteur submits conclusions and recommendations based on his analysis of the information available on infringements of the rights set out in the Declaration during the period covered by this report and on the study of measures which could contribute to preventing intolerance and discrimination based on religion or belief.

I. MANDATE AND WORKING METHODS OF THE SPECIAL RAPPORTEUR

10. In his previous reports, the Special Rapporteur included considerations on the subject of his interpretation of the mandate entrusted to him by the Commission on Human Rights (E/CN.4/1988/45, paras. 1-8; E/CN.4/1989/44, paras. 14-18). He particularly stressed its dynamic nature. He therefore considered it necessary in the initial phase to set out the elements of the problem before him and in so doing to identify factors which might be an impediment to the implementation of the provisions of the Declaration; to make a general inventory of incidents and measures inconsistent with those provisions; to emphasize their adverse consequences in respect of the enjoyment of fundamental rights and freedoms; and to recommend a number of remedial measures.

11. In the second phase, the Special Rapporteur deemed it useful to take a more specific approach and to endeavour to identify more precisely particular situations where inconsistencies with the provisions of the Declaration might have been reported. For this purpose he specifically approached a number of Governments and requested clarification of allegations concerning their country in particular. He noted with satisfaction that most of the Governments in question had replied. He deems it essential at the present stage to continue with and to develop this dialogue, which clearly demonstrates a genuine interest in the issues raised in the context of his mandate, and sustains the hope of further mobilization with a view to reaching a solution.

12. This method of direct dialogue with Governments, used experimentally during his previous mandates, has been backed up to some extent during the last four years by the actual terms of Commission on Human Rights resolutions 1988/35, 1989/44, 1990/27 and 1991/48, adopted at the forty-fourth, forty-fifth, forty-sixth and forty-seventh sessions. They invite the Special Rapporteur "to seek the views and comments of the Government concerned on any information which he intends to include in his report". In previous reports, as well as in the present one, the Special Rapporteur has included the answers provided by Governments to a questionnaire which he addressed to them on 25 July 1990. The questions appearing in it were selected in the light of the dialogue which the Special Rapporteur has been able to establish with many Governments since taking up his mandate and reflect aspects which, in his opinion, call for clarification. His analysis of the answers is also included.

13. The Special Rapporteur welcomed the decision of the Commission in resolution 1990/27 to extend his mandate for a further two years. He considers that the decision has enabled him to develop further his dialogue with Governments, both generally and specifically, and to offer them additional opportunities of providing their comments on issues raised or on particular allegations transmitted to them. This has enabled him to present a more comprehensive analysis to the Commission at the end of the two-year period of his mandate.

14. As in his previous reports, the Special Rapporteur has endeavoured, as the terms of Commission on Human Rights resolution 1991/48 require, to respond effectively to credible and reliable information coming before him, and to carry out his work with discretion and independence. In order to do so, he has drawn on a very broad range of governmental and non-governmental sources, of very varied geographical origins, stemming both from organizations and from individuals. Among such sources, the Special Rapporteur has endeavoured to take due account of information from religious groups and denominational communities. He has given priority to the use of recent information for the period since the submission of his previous report to the Commission; however, particularly in the case of situations mentioned for the first time, or in order to take account of problems the origins or at least the manifestations of which go back a number of years, he has sometimes made use of earlier information and referred to it.

15. As regards the interpretation and scope of his duties, the Special Rapporteur wishes to reflect here, as in his previous report (E/CN.4/1991/56, paras. 14 and 15), some comments and observations arising out of his mandate. Some of these comments concerned the determination of causes and responsibilities in the field of intolerance based on religion or belief. Although the Special Rapporteur deemed it advisable to stress the responsibility which might devolve on Governments in respect of religious restrictions or repression, it cannot be denied, as he stated in his initial report (E/CN.4/1987/35, paras. 29-45), that the factors hampering the implementation of the Declaration are extremely complex. While intolerance may in some cases be the result of a deliberate policy on the part of Governments, it may also frequently derive from economic, social or cultural tensions, and take the form of acts of hostility or conflicts between different groups. Behind phenomena of intolerance may also be found certain dogmatic interpretations which stir up misunderstandings or hatred between different religious communities or encourage dissension within them.

16. Given this multiplicity of responsibilities, the dialogue established with Governments by the Special Rapporteur and the transmission of allegations concerning their countries in no way implies any kind of accusation or value judgement on the part of the Special Rapporteur, but rather a request for clarification with a view to trying to find, along with the Government concerned, a solution to a problem which goes to the heart of human rights and fundamental freedoms.

II. SPECIFIC INCIDENTS IN VARIOUS COUNTRIES EXAMINED BY THE SPECIAL RAPPORTEUR

17. In addition to the general questionnaire addressed to all Governments on 25 July 1990, the Special Rapporteur addressed specific requests to a number of Governments in accordance with the provisions of paragraph 12 of Commission on Human Rights resolution 1991/48, which invites the Special Rapporteur "to seek the views and comments of the Government concerned on any information which he intends to include in his report," and with the provisions of paragraph 13 which calls upon Governments "to cooperate with the Special Rapporteur, *inter alia*, by responding expeditiously to requests for such views and comments". In these specific communications the Special Rapporteur requested any comments concerning information on situations which seemed to involve a departure from the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, particularly those dealing with the enjoyment of the right of freedom of thought, conscience and religion (arts. 1 and 6); the prevention, elimination and prohibition of discrimination and intolerance on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms (arts. 2-4); and the right of parents to organize the life within the family in accordance with their religious beliefs and the right of children to have access to a religious education in accordance with the wishes of their parents, as well as the right of children to be protected from any form of discrimination on the grounds of religion or belief (art. 5).

18. As of 15 December 1991, the following Governments had replied to the specific communications transmitted to them by the Special Rapporteur during 1991: China, Egypt, El Salvador, Greece, India, Iraq, Morocco, Thailand.

19. In addition, following specific communications transmitted to Governments during 1990, the Special Rapporteur received in 1991 replies from the Governments of Dominican Republic, Ghana, Pakistan. Both the specific communications and the replies to them are included in this report.

China

20. In a communication sent 10 May 1991 addressed to the Government of China, the following information was transmitted by the Special Rapporteur:

"According to the information received, Mr. Lobsang Tsering (aged 42), a businessman from Lhasa, was picked up on 19 October 1990 in Gyantse by officials of the Public Security Bureau (*Gon An Ju*).

It has been reported that Mr. Lobsang Tsering was accused of photocopying and distributing at the beginning of 1990 a prayer entitled '*Tsemed Yonten*' or '*Tensik Monlam*' to 800 monks at Kantse (Kartse) Monastery in Kham.

It has further been reported that it is not known where Mr. Lobsang Tsering is being held and that he may have been transferred outside the region.

According to additional information received, the following persons have also been arrested and imprisoned on the basis of the same accusation in Kantse and Lhasa:

Lhasa

1. Bu Truk (aged 42)

Kantse

1. Namgyal (aged 53)
2. Palden Tsering (aged 32)
3. Tenzin Gyatso (aged 26)
4. Thupten (aged 32)."

21. On 16 August 1991, the Government of China sent its comments to the Special Rapporteur regarding the above-mentioned information.

"At the end of 1989, Lobsang Tsering, age 42, under the pretext of sending copies of the (Buddhist) classics, illegally asked some people to convey to the monastery in Kantse, Sichuan province, foreign printed material advocating 'Tibetan independence' and the break-up of the motherland. As this contravened article 102 of the Chinese Penal Code he was detained by the Tibetan judicial organs in September 1990. Because he admitted his guilt and his conduct was relatively good, he was set free not long afterwards. He is now living in Lhasa.

Thupten, age 32, Namgar, age 52, Tezing Yatsto, age 26, and Palden Tsering, age 29, are all from the Sichuan county of Kantse. Because they helped to distribute the illegal propaganda sent by Lobsang Tsering, they were detained by the Sichuan judicial organs in September 1990. As they admitted their guilt and their conduct was relatively good, they were set free not long afterwards. At present Thupten and Namgar are farming with their families in Kantse. Tensing Yatsto and Palden Tsering, both Buddhist monks, are at the Kantse monastery.

Kindly supply us with detailed background material on the case of Bu Truk in order to assist our inquiries."

22. In a communication sent on 31 October 1991 addressed to the Government of China, the following information was transmitted by the Special Rapporteur:

"According to the information received, the procedures for finding reincarnations of monks in Tibet will be conducted by a committee organized by the authorities. These regulations would violate an ancient religious tradition and are said to directly affect the search for the reincarnation of the Panchen Lama whose successor would have to be approved by the State Council. According to the sources, the following regulations with regard to searching for reincarnations have recently been established:

1. The search must be conducted under the leadership and guidance of the Chinese Communist Party;

2. The reincarnation must be found within Chinese territory, not in a foreign country;

3. The reincarnation must be determined and recognized by Lamas who remain in China. Those who live abroad have no right to either determine or recognize a reincarnation;

4. Reincarnations must not be found in the families of Communist Party Members.

It has also been alleged that the following new criteria for the selection of abbots in Tibet have also been established:

1. Educational level;

2. Leadership ability;

3. Approval of the monastery's Democratic Management Committee (whose membership is said to be chosen or approved by the authorities);

4. Approval of the Prefecture Religious Bureau.

The Special Rapporteur has been informed that national legislation governing religious affairs concerning Tibetans has been adopted and would greatly appreciate receiving the text of this law. He would also be very grateful to obtain a copy of the provincial law on religious activity in Tibet as well as the 'Rules for Democratic Management of Temples' which were enacted by the People's Congress of the Tibetan Autonomous Region. In addition, he would also like to acquaint himself with the activities of the Tibetan Buddhism Guidance Committee.

It has been alleged that a report concerning basic policy on religious affairs produced in February 1991 in the Ganze prefecture of Sechuan province states that 'Freedom of religious belief is a long-term policy which will prevail until the natural extinction of religion', adding that '...we are not totally ready for the natural extinction of religion, and we must make a long-term effort'. The report states, inter alia, '...all the people living in Ganze prefecture knew that among the 80,000 people living in Ganze prefecture, 76 per cent are Tibetans, the majority of whom believed in Tibetan Buddhism, and there is a thousand years of history (of them believing in it). From here we can see very clearly that we must have a good nationality relationship in order to carry out the policy of freedom of religious belief'.

It has been said that the report further indicates that 'We must remember the lessons we have learned from the past when we adopted simplistic and forceful methods to extinguish religion and eventually got just contrary to what we had expected.' The report allegedly also states that 'To protect proper religious activities, it is also necessary for the masses of religious people and monks to do according to the party's religious policy. Religious activities and religious lives can only be developed and carried out within the scope of the permission of the policy and law', adding 'Of course, to undertake religious activities outside the religious site is abnormal, and must be forbidden.' It is also said to indicate that 'Religious professionals are responsible for liaising with the religious masses to manage religious affairs and keep them in order, and to preserve monasteries, especially those monasteries which have been listed as important cultural units.' It reportedly prescribes that 'We must bear in mind the reality of the masses of people in our prefecture. They have just been living a reasonably well-off life, and therefore we must advise them on not to donate too much money to religion, and not to start big constructions, in order to avoid waste of manpower, etc.' The report allegedly states further that 'It should be pointed out specially that the regulation on forbidding young people under 18 years of age to be religious was not seriously carried out in some areas. It is not allowed and (is) a violation of the policy to seduce young people into religion by taking advantage of their inexperience and inability to tell right from wrong.' The report is said to conclude by indicating that 'It is obvious, therefore, that it is a long-term, not-ending-until-the-natural-extinction-of-religion enduring work to continue to propagate the religious policy to the masses, especially the religious people, to raise their level of self-consciousness.'

It has been reported that the Monlam (Great Prayer) Festival has been banned for the third consecutive year and that the streets in the Barkor area of Lhasa which are used for circumambulation of the Jokhang Temple were dug up during this period. It has also been reported that on this occasion a 24-hour curfew had been placed on monasteries near Lhasa from 1 to 11 March 1991 and that units of the People's Armed Police (Wu Jing) of up to 100 men sealed off the monasteries, thus preventing about 900 monks from leaving the monasteries of Drepung, Ganden and Sera. It has been alleged that a monk had been shot and wounded in the abdomen by the armed police on 1 March 1991.

It has further been reported that monks who were expelled from monasteries, imprisoned and subsequently released and confined to their areas of origin are obliged to report to the local police authorities every seven days. They allegedly cannot leave the area without official permission and in the event that it is granted must return within seven days. These restrictions are said to be imposed for indefinite periods. If allowed once again to join a monastery, the monks are confined to the monastery area and required to report to the police every seven days. The reporting sessions are said to last an hour and include requests for information about other monks in the monastery. Monks are reportedly also restricted with regard to which monastery they may receive education from.

Pilgrims visiting these monasteries are reportedly searched and special approval by the authorities is said to be required for the performance of religious ceremonies and rituals which are said to be limited mainly to outward manifestations such as circumambulation and prostration. It has been reported that the authorities have decreed that only 'normal' religious practices are allowed and only within specified buildings. All administrative decisions are said to be made by local officials, thus depriving the monastic officials of all authority.

It has further been alleged that in February and May 1991 all monks and nuns in the principal religious institutions of Lhasa were confined by the authorities to their quarters for periods of up to two weeks and that permanent police teams were moved into these institutions. The admission of new monks and nuns has allegedly been banned. The numbers of teachers who are able to impart doctrine is said to be very small and declining. For example, it has been alleged that there were only two qualified teachers holding the geshe degree for 400 monks in Ganden Monastery. There are allegedly only 35 holders of the geshe degree at Sera Monastery, all of whom received their degrees more than thirty years ago. This is said to result in a significant generation gap between the novices and learned monks. As a result, only a small number are said to have reached the immediate level of training, especially since monks are reportedly only permitted to debate two hours each day. The Special Rapporteur was also informed that four Tibetan monks had been sentenced to an average of 15 years' imprisonment in November 1989 for translating the Universal Declaration of Human Rights.

According to the sources, severe restrictions on travel both inside the country and abroad were imposed as of 27 September 1990, in anticipation of the Kalachakra religious initiation ceremony which was to be held in December in India. Local authorities are said to have received an 'Instruction on Doing Correctly the Work of Dissuading the Masses from Leaving the Country', with a view to discouraging people from attending this important Buddhist ceremony. It has been alleged that the orders specifically concerned persons who are leaving the country 'to hear prayers'. It has also been alleged that persons who had travelled abroad to attend the Kalachakra ceremony have been arrested upon return and imprisoned for six months.

The Special Rapporteur has been informed of the arrest of the following monks who are currently said to be detained in Drapchi Prison. Since no reasons for their arrest were reported, the Special Rapporteur would be grateful if the Government could provide information with regard to the section of the Criminal Code under which they have been charged as well as the circumstances surrounding their arrest (the names are provided in the common phonetic transliteration):

1. Lobsang Tsultrim, aged 75
   Drepung Monastery

2. Khyentse Legdrug, aged 27
   Namrab Dag Monastery
   (Lay name: Phurbu Tsering)

3. Ngawang Rangdrol, aged 20
   Samye Monastery

4. Lobsang Yeshe, aged 26
   Ganden Monastery

5. Lobsang Choejor, aged 32
   Ganden Monastery
   (Lay name: Chunjor)

6. Lobsang Tashi, aged 28
   Ganden Monastery
   (Lay name: Chungdak)

7. Lhundrub Gaden (or Kelden), aged 22
   Ganden Monastery
   (Lay name: Tashi)

8. Thubten Tsering, aged 64
   Sera Monastery

9. Ngawang Tenzin, aged 21
   Kyormolung Monastery
   (Lay name: Nyima)

10. Ngawang Shenyen, aged 25
    Kyormolung Monastery
    (Lay name: Phun Dorje)

11. Ngawang Rabsang, aged 18
    Kyormolung Monastery
    (Lay name: Norbu)

12. Thubten Namdrol, aged 63
    Draraludrag Monastery

In addition, the Special Rapporteur's attention was drawn to the cases of arrest of the following members of the Christian clergy:

1. Su Zhimin, aged 58, Roman Catholic Vicar-General of Baoding, reportedly arrested on 17 December 1989 and sentenced on 21 May 1990 by the Baoding City Labour Re-education Administrative Committee to three years of re-education through labour, reportedly for taking part in the Chinese Bishops' Conference held in Sanyuan in November 1989. He is said to have been accused of 'taking part in illegal activities' and was allegedly sent to the labour camp near Tangshan city, Hebei province.

2. Father Francis Wang Yijun, aged 75, Vicar-General of Wenzhou, reportedly sentenced by the Labour Re-education Administrative Committee of Wenzhou City People's Government to three years of re-education through labour on 5 February 1990, the day on which he completed his eight-year prison term because of his religious convictions. It has been alleged that the new sentence is to run from 20 March 1990 to 19 March 1993.

3. Xu Guoxing, aged 36, Protestant preacher from Shanghai, reportedly arrested on 6 November 1989 for having 'seriously interfered and damaged the regular order of religious activities'. The Shanghai Municipal Public Security Bureau sentenced him to three years of re-education through labour on 1 November 1989. His sentence is to run from 6 November 1989 to 5 November 1992.

4. Liu Qinglin, aged 59, Protestant evangelist from Moguqi, reportedly arrested in July 1989 and sentenced to three years of re-education through labour because he carried out religious activities without official approval."

Cuba

23. In a message sent to the Government of Cuba on 29 November 1990, the Special Rapporteur transmitted the following information:

"According to information received, the following persons or groups of persons are said to have been persecuted for their religious beliefs:

1. Alejandro Rodriguez Castillo, a prisoner at Combinado del Este. He was robbed of his bible in May 1990 and refused another one by the authorities. He therefore went on hunger strike, for which he was moved to a punishment cell;

2. Oscar Peña Rodríguez, a Jehovah's Witness, was arrested on 12 December 1989 and taken to Jagua psychiatric hospital, where he has been given large doses of psychotropic drugs;

3. Emilio Rodríguez was taken for a time to a psychiatric hospital in Santa Clara at the end of February 1990, after religious publications relating to the Jehovah's Witnesses were found in his possession;

4. Mabel López González, Fidel Diaz Pacheco, Alberto Bárbaro Villavicencio, Narciso Ramírez Lorenzo, Alfredo Falcón Moncada and Mercedes Peito Paredes, Jehovah's Witnesses, were arrested in Sagua La Grande, Las Villas province, on 18 January 1990. Religious literature was confiscated from them and they were accused of running a clandestine printing press;

5. Marcela Rodríguez Rodríguez, Paulino Aguila Pérez, Ramón López Peña and Guillermo Montes, Jehovah's Witnesses, were fined by the Municipal Court of San Cristobal on 2 August 1990 for possession of religious literature."

Dominican Republic

24. In a communication addressed to the Government of the Dominican Republic on 20 September 1990 (E/CN.4/1991/56, para. 54), the Special Rapporteur transmitted the following information:

"According to the information received, some members of the Maranatajöraalingen Church, of Swedish origin, established in the Dominican Republic, allegedly suffered a number of human rights violations, apparently because they belong to this religion.

Complaints have been made relating to the following cases:

1. Carlos Peña Roa and two other persons. According to the complaint, these persons have been in La Victoria Prison for 15 years. In the first 11 years of imprisonment they were allegedly denied access to a court to establish the lawfulness of their imprisonment. They were allegedly convicted by the Supreme Court on 27 October 1989, although the sentence is not known.

2. A missionary, Berno Widén, and Joakim Jakobsson (15 years of age), both of Swedish nationality, and the Dominicans Sandra Sánchez (14 years of age) and Jeremias Quesada, have alleged that they went to the La Victoria Prison to visit Carlos Peña Roa (mentioned in the previous paragraph), and were held by the police on charges of drug trafficking.

3. Pastor Arne Imsen was allegedly prevented from entering the country when he attempted to attend the above oral proceedings that led to the sentence handed down on 27 October 1989."

25. On 22 January 1991, the Government of the Dominican Republic replied to the letter which the Special Rapporteur had sent it on 20 September 1990.

In its reply, it said specifically:

"On the case of Mr. Carlos Peña Roa, the Government wishes to inform the Centre that he was sent to La Victoria Prison on 6 September 1979 on the orders of the Government Procurator of the National District for violation of articles 295, 296, 297 and 304 of the Criminal Code. These articles are concerned with murder, for which they impose penalties. On 10 April 1985, the First Criminal Chamber of the Court of First Instance of the National District sentenced him to 30 years' imprisonment. On 27 October 1989, the Penal Chamber of the Santo Domingo Appeal Court reduced the sentence to 20 years' imprisonment. Subsequently, the same court released him on parole, by Administrative Order No. 814/90 dated 26 July 1990, which was executed on 10 August 1990.

"As regards the detention of the persons mentioned in paragraph 2 of the Centre's communication mentioned above, they were released within the statutory period after being investigated.

As to the fact that Pastor Arne Imsen, head of the Maranata Group, is prevented from entering the Dominican Republic, it is known that this group is not a religion but a movement; it is not registered in the Dominican Republic as a religious group, serious accusations having been made against it regarding acts committed in the Dominican Republic and in Sweden, which do not involve religious intolerance, but violations of the criminal law and public morality."

Egypt

26. In a communication addressed to the Government of Egypt on 20 September 1990 (E/CN.4/1991/56, para. 57) the Special Rapporteur transmitted the following information:

"It was alleged that Ms. Nahid Muhammed Metwali, the Principal of a Senior High School for Girls in Helmeit Al-Zatoun, may have been murdered by her husband when she converted from Islam to Christianity; her whereabouts were said to be unknown since July 1989.

It has also been reported that the following Egyptian citizens of Christian faith have been subjected to imprisonment and torture as a consequence of Ms. Metwali's conversion:

1. Mr. Mauris Ramzy, a science teacher at the same school residing in Helmeit Al-Zatoun, is said to have been whipped by members of the National Security Force and subsequently placed naked before numerous ventilators, resulting in acute kidney and appendix problems. After spending two months in hospital, he was allegedly imprisoned in the maximum security prison of Abo-Zabal on charges of conspiracy aiming at converting Muslims to Christianity in the school where he works.

2. Ms. Lauris Aziz, an English teacher at the same school, residing in the Al-Naam district of Ein-Shums, Cairo, is reported to have been taken at 2 a.m. to a police station where it is alleged that she was tortured and released after two days upon the deposit of bail in the amount of 500 Egyptian pounds. She was reportedly accused of being an accomplice of Mr. Ramzy in his alleged conspiracy.

3. Ms. Eugenic Yacoub, Deputy Principal of the same school, was reported to have been subjected to the same treatment as Ms. Aziz.

4. Ms. Salwa Ramzy, secretary at the cited school, was reportedly taken several times to a police station by members of the National Security Force where she has allegedly been subjected to torture.

According to additional information received, on 12 May 1990 six Egyptian citizens of Christian faith, among whom a priest and his wife, were reported to have been murdered in Alexandria by followers of the Muslim faith."

27. In a communication dated 16 November 1990 (E/CN.4/1991/56, para. 58) the following information was transmitted:

"According to the information received, in April 1990, Mr. Ayad Anwar Baskharoun, formerly Abdel Hamid Beshari Abdel Mohzen, an Egyptian citizen who converted to Christianity from the Muslim faith, reportedly died in Abu Zabul prison because of his conversion after being tortured and denied medical assistance. It has been alleged that Mr. Ayad was apprehended by the police and the State Security in June and August 1989, respectively, and is reported to have been released and re-arrested four times during the two months that followed. It is also alleged that he spent 55 days in solitary confinement. While detained in Abu Zabul prison, Mr. Ayad is said to have complained of internal bleeding but was allegedly informed by the prison authorities that he could receive medical treatment only if he renounced his Christian faith and reconverted to Islam. Mr. Ayad is reported to have refused to do so and subsequently died. According to additonal information, Mr. Ayad's death certificate is said to have been falsified to show that he had died in a hospital.

With reference to the communication dated 20 September 1990 concerning the killing of six Egyptian citizens of Christian faith, namely: Father Hanna Awad, pastor of the Anba Shinouda Church in El-Nobaria near Alexandria, his wife Therese, deacons Dr. Camal Rushdy, Mr. Sami Abdu and Mr. Botros Bishai, and of the altar boy, 9-year-old Michael Sabri, it has been alleged that, following the funeral services for the six persons mentioned above, security forces attacked the funeral procession with clubs and gun-fire, subsequently arresting and detaining 23 participants in the procession. It is further alleged that the 23 persons were tortured while in detention."

28. On 27 May 1991, the Government of Egypt sent its comments to the Special Rapporteur regarding the two above-mentioned communications:

"An investigation conducted by the competent authorities has led to the following conclusions:

With regard to the allegations made, the principal points of which relate to the apostasy of Nahid Muhammad Metwalli, the questioning of suspects in a case involving the defamation and disparagement of divinely-revealed religions and the incident in which the Reverend Shenouda Hanna Awadh was murdered, the following has been ascertained:

(a) The apostasy of Nahid Muhammad Metwalli (and the allegation that she was probably murdered)

The Egyptian Constitution guarantees freedom of religion and belief while, at the same time, designating as a criminal offence any disparagement of a divinely-revealed religion, even by one of its former adherents.

Nahid Muhammad Metwalli (a teacher) had produced a tape recording, concerning her conversion to Christianity and her apostasy from Islam, in which she disparaged Islam and criticized the Holy Quran.

In view of the danger that the content of the tape recording could cause a deterioration in intercommunal relations that might threaten the country's stability and security, the Department of State Security Prosecutions issued a warrant for the arrest of the above-mentioned person for questioning in State security case No. 587/89 and she is still a fugitive from justice.

Some other Christian teachers from the same school in which Nahid Muhammad Metwalli was teaching circulated the tape recording that she had produced in a manner that showed contempt for the Islamic religion. The teachers concerned were Maurice Ramzi, Laurice Aziz, Eugénie Ya'qoub and Salwa Ramzi.

The Department of State Security Prosecutions questioned the above-mentioned teachers in State security case No. 587/89, in which they were charged with the offence of exploiting religion to promote extremist ideology with a view to instigating sedition and expressing scorn and contempt for a divinely-revealed religion, namely the Islamic religion, and its adherents in a manner prejudicial to national unity and social harmony.

It should be noted that the allegation referred to in the letter from the Centre for Human Rights is purely hypothetical and such hypotheses should be avoided, particularly in a report issued by the United Nations Centre for Human Rights.

(b) The murder of Reverend Shenouda Hanna Awadh

On 11 May 1990, unknown persons opened fire on a vehicle in which Reverend Shenouda Hanna Awadh, the pastor of Ra's al-Tur'a Church at Abul-Matameer, was travelling with other persons. All the passengers were killed.

On 12 May 1990, the police arrested a farmer, Rajab Muhammad Awadh Muhammad, the brother of Hassan Muhammad Awadh who was killed in 1989 by the brother of one of the Christian passengers of the vehicle at which the shots were fired.

During his interrogation, he confessed that he had committed the act in order to avenge his brother's death. The weapon that had been used in the incident was also seized. The accused person is currently in detention pending trial in Abul-Matameer criminal case No. 2085/1990.

On 13 May 1990, during the funeral of Reverend Shenouda Hanna Awadh, some Christian agitators attempted to endow the incident with confessional implications with a view to disrupting public security. This necessitated intervention by the security authorities, who arrested them and referred them to the Department of Public Prosecutions which ordered their detention (on a charge of riotous assembly in Bab Sharq adminstrative case No. 2861/90) for a period of 15 days, which the Department of Public Prosecutions subsequently renewed for a further period of 15 days in order to complete the investigation procedures which eventually led to their release in July 1990.

It should be noted that national unity between the country's two religious communities has always constituted one of the sacrosanct pillars of Egyptian society and the Egyptian authorities take action against any person who attempts to prejudice this unity, regardless of his religion or belief."

29. In a communication sent on 15 May 1991 addressed to the Government of Egypt, the following information was transmitted by the Special Rapporteur under annex I:

"According to the information received, three Egyptian citizens of Christian faith who had converted from Islam, Mustafa Mohammad Said al-Sharqawi (aged 30), Mohammad Hussein Mohammad Ibrahim Sallam (aged 25) and Hassan Mohammad Isma'il Mohammad (aged 21), are currently detained on charges of, inter alia, 'Contempt of Islam' and 'Threatening the Unity of the Country', which may entail prison sentences of three and five years respectively. It has been reported that Mustafa Mohammad Said al-Sharqawi and Mohammad Hussein Mohammad Ibrahim Sallam were arrested on the night of 28 September 1990, while Hassan Mohammad Isma'il Mohammad was arrested on 9 October 1990. It has been alleged that Mr. al-Sharqawi is detained at Abu Za'abal Industrial Prison while Mr. Sallam and Mr. Mohammad were initially said to have been detained at the State Security Intelligence Police (SSIP) detention centre in Heliopolis and subsequently transferred to Abu Za'abal prison. It has been reported that these persons were also imprisoned for several months at the beginning of 1990.

It has been alleged that the three men had been subjected to severe torture, ill-treatment and verbal abuse at the beginning of their incarceration and that Mr. Hassan had refused to see his lawyer as they were allegedly severely beaten after every visit of their attorneys. It is believed that they are currently in good health and no longer risk torture.

It has been reported that Mr. al-Sharqawi, Mr. Sallam and Mr. Mohammad were imprisoned without charge or trial under the State Emergency Act of 1978 which allows for no notification of the family or the right to visitation by legal counsel for a period of one month. According to the information received, Mr. al-Sharqawi and Mr. Sallam were tried by the State Security Tribunal on 25 November 1990 and found innocent on all charges. They were not released and the Minister of the Interior availed himself of the right to rescind the court order within two weeks and did so on 9 December 1990.

It has further been reported that during a second hearing on 16 December 1990, all three men were once again declared innocent and the court ruled again that all three men should be released. Despite the second court release order against which the Ministry of the Interior is said to not have the right of appeal, the three men were not released and the Ministry of the Interior allegedly issued an additional arrest order in order that they may remain in prison.

It has further been alleged that Mr. Hassan was declared innocent of charges on 10 January 1991 and released, but was immediately re-arrested by the State Security Police and incarcerated.

It has been reported that at a hearing which took place on 27 March 1991, the court decided to extend the detention of Mr. al-Sharqawi, Mr. Sallam and Mr. Mohammad by an additional 45 days. An additional hearing took place on 12 May 1991 at which their detention is said to have been extended until 12 June, when they would be either tried or released. According to the sources, they may be charged under Articles 95 and 98 (f) of the Penal Code which, inter alia, concern 'opposing religious doctrines', 'actions against any heavenly religion', 'the exploitation of religion', 'propagation of extremist religious thought', and 'putting national unity and social peace at risk'."

30. Additional information was sent under annex II:

"According to additional information received, 'Abd ad-Hamid 'Abd al-Muhsin and Yohanna Bishoy 'Abd al-Masih, Egyptian citizens of Christian faith who had converted from Islam, were imprisoned for several months at the beginning of 1990. It has been reported that 'Abd ad-Hamid 'Abd al-Muhsin died in prison in February as a result of heart failure. Yohanna Bishoy 'Abd al-Masih is said to have been imprisoned on a number of previous occasions for the non-violent expression of his beliefs.

The Special Rapporteur has received allegations concerning several cases where the Coptic community of Egypt had not been able to obtain the presidential permit required to build or repair churches as well as on cases when churches had been closed because they were either repaired without official permission or purchased from another religious community. The information, as received by the Special Rapporteur, has been summarized as follows:

Presidential permit to build churches not granted

1. City of Assyut, in El-Saouaf Street and new development section;
2. City of Kousia, since 1974;
3. City of Zagazeg, since 1981;
4. District of Ameria, in Alexandria, since 1971;
5. District of Mamoura, in Alexandria, since 1964;
6. Town of Nasr, in the city of Sohae, since 1977.

Presidential permit to repair churches not granted

1. St. Abadeer, in the city of Assyut;
2. St. Bishoy, in the city of Abo-leeg;
3. St. Hydra Monastery, in the city of Aswan, thought to have been built in the fifth or sixth century. Partly ruined during the twelfth century, it was placed under the supervision of the Egyptian Department of Antiquities which has neither restored it nor allowed the local bishop to restore it under the Department's supervision. It has also been alleged that the authorities do not allow Christians to pray in or tourists to visit the cathedral of this monastery;
4. St. Mary's Church, in the Cleopatra district of Alexandria, denied a building permit after issuing of presidential permit in 1979;
5. St. Peter's Church, in the city of Kina, Upper Egypt.

Churches that were closed

1. Coptic church in the city of Ayad, Province of Giza;
2. Coptic church in the city of Badr, Province of Al-Tharu, was demolished by the police;
3. St. George's Church in the city of Dairut, Province of Assyut;
4. Coptic church in the city of Khanka, Province of Kaliopia;
5. Church near the Bishop's residence in the city of Malawi, Province of Assyut;

6. St. John's Church in the city of Minya, Province of Minya;

7. Coptic church in the city of Rass Al-Barr, Province of Dumyat;

8. St. Mikhail's Church in the city of Sohag, Province of Sohag, has been closed since 1981."

31. On 15 October 1991 the Permanent Mission of Egypt transmitted the following response to the above-mentioned allegations.

"We wish to refer to the provisions of the Egyptian Constitution and Egyptian law in this regard, since they govern the legal and legislative aspects of this matter as a whole. These provisions are detailed below:

A. The Egyptian Constitution

The Egyptian Constitution deals with matters relating to religion from two fundamental standpoints, namely the need to avoid discrimination among citizens on grounds of their religion or belief, and the guarantee by the State of freedom of belief and religious observance.

These two principles are embodied in the following articles of the Egyptian Constitution:

1. Article 40: 'All citizens are equal before the law and in regard to their public rights and obligations, without any discrimination among them on grounds of sex, origin, language, religion or belief'.

2. Article 46: 'The State guarantees freedom of belief, as well as freedom to engage in religious observance'.

B. The Egyptian Penal Code

The Egyptian Penal Code protects the principle of freedom of belief and religious observance, as set forth in the Egyptian Constitution, by designating as a criminal offence all acts which prejudice or infringe that principle.

1. Acts which are designated as criminal offences under the terms of article 98 (f) of the Penal Code (an article which was inserted therein pursuant to Act No. 29 of 1982)

'A penalty of imprisonment for a period of not less than six months and not more than five years, or a fine of not less than LE 500 and not more than LE 1,000, shall be imposed on any person who exploits religion in order to promote or advocate extremist ideologies by word of mouth, in writing or in any other manner with a view to stirring up sedition, disparaging or belittling any divinely-revealed religion or its adherents, or prejudicing national unity or social harmony.'

2. Acts which are designated as criminal offences under the terms of article 160 of the Penal Code (as amended by Act No. 29 of 1982)

'A penalty of imprisonment and/or a fine of not less than LE 100 and not more than LE 500 shall be imposed on: (i) any person who destroys, damages or desecrates premises intended for the celebration of religious rites, emblems or other articles venerated by the members of a religious community or group of people; (ii) any person who uses violence or threats to disrupt or interrupt the religious observances or celebrations of any community; and (iii) any person who profanes or desecrates graves or cemeteries.'

3. Acts which are designated as criminal offences under the terms of article 161 of the Penal Code

The penalties prescribed in the preceding article also apply to:

(a) The printing or publication of scriptures that are revered by members of a religious community, whose rites are performed in public, in such a way as to deliberately distort and alter the meaning of the text of those scriptures.

(b) The mimicry of a religious celebration in a public place or gathering with the aim of ridiculing it or exposing it to public view.

The provisions of the Egyptian Constitution in this connection are based on the principles of freedom of religion and belief, non-discrimination among citizens in this regard, and the guarantee by the State of freedom of religious observance. Accordingly, the position adopted by the Egyptian Constitution is in keeping with the practice of the international community, as defined in the international covenants and conventions concerning human rights and freedoms. Moreover, the role of the Egyptian legislature in the formulation of these principles was not confined to the promulgation of constitutional provisions since, as already indicated, those principles have been granted legal protection through the designation as criminal offences of all acts which prejudice or infringe them and through the prescription of penalties to deter the perpetrators of such acts.

The above provisions clearly show the extent of the respect and freedom which religions enjoy in Egypt and which is guaranteed by the Constitution and protected by law."

32. The following additional information was transmitted to the Government of Egypt on 31 October 1991, by the Special Rapporteur:

"According to the information received, there is no article in Egyptian law which speaks of conversion from one religion to another. While converting to Islam from another faith is allegedly approved, converting from Islam to another religion is not allowed and cannot be declared officially. It has also been alleged that employers sometimes indicate in advertisements for job vacancies that the applicants should be of Muslim faith. In addition, it has been said that £20,000 bonuses have been offered for converting to Islam.

It has also been reported that, according to Law No. 25 of 1920, Law No. 52 from 1929 and Law No. 77 from 1943, if a man becomes a non-Muslim, he must divorce his wife, whether of his own will or by order of court. In addition, a person converting from Islam to another religion allegedly loses all inheritance rights from all Muslim relatives - parents, brothers, wife or children - and cannot receive any inheritance from a Muslim. The person reportedly also loses custody of children who are not of age. It has been alleged that if Islamic law is applied, the punishment for converting from Islam to another religion is the death sentence.

It has also been alleged that no one can preach a religion other than Islam in public. The police would reportedly also prevent a person from making public statements of this kind and would arrest them in accordance with security police measures. According to the sources, persons who have converted to another religion from Islam either have to repent and convert back to Islam in order to continue living in Egypt or leave the country in order to avoid problems for themselves and their families.

Situation of the Coptic community

According to the information received, on 22 June 1991, a group of Muslim fundamentalists murdered Father Marcus Khahl Fanous, the eighty-year-old priest of Mosha village in the province of Asyut in Upper Egypt, who had been celebrating the first day of the Aiadha (sacrifice) feast.

It has further been alleged that on 16 June 1991, the Government ordered Security Forces to surround the Coptic church in Alasafra district, Alexandria, and expel the worshippers while they were praying. It has also been reported that on the same day, security forces stormed another Coptic church in Ibrahim Basha village near the city of Samalout in Mynia province, Upper Egypt. They allegedly destroyed the church, hurled the priest to the floor and kicked him and terrorized the worshippers. All religious books and icons are said to have been thrown to the floor.

According to the sources, presidential decrees are required to build or repair churches. As an example, presidential decree No. 157 was cited, which had been issued in June 1991 to repair the toilet and storage rooms of the church in Mait-Barra village in the province of Mounifia. It has been alleged that similar decrees are not required to build or repair mosques. It has also been reported that more than 200 applications to repair churches and build new ones have not been acted upon. This has resulted in the closing of a number of churches which have deteriorated and are dangerous to enter. It has also been alleged that the Coptic community is not allowed to build churches in newly developed towns and cities."

El Salvador

33. In a communication addressed to the Government of El Salvador on 6 November 1990 (E/CN.4/1991/56, para 60), the Special Rapporteur transmitted the following information:

"With the declaration of the state of siege (November 1989), many reports indicate disturbing violations of the human rights of religious leaders or of helpers of the country's churches. According to the complaints, large numbers of persons are persecuted for belonging to specific religious demoninations which are involved, out of social commitment, in work with the underprivileged classes of society. Although these cases have taken place in a situation of widespread violence, the sources indicate that the persons have allegedly been the victims of violence on account of their community and church work. Attention is drawn to the following cases:

(a) Extrajudicial executions:

Ignacio Ellacuría, S.J.

Armando López Quintana, S.J.

Joaquín López y López, S.J.

Juan Ramón Moreno Pardo, S.J.

Ignacio Martín-Baró, S.J.

Segundo Montes Mozo, S.J.

Elba Julia Ramos

Celina Maricet Ramos (15 years of age)

The six Jesuits mentioned above, their cook and her daughter were murdered in the early morning of 16 November 1989, during the curfew, at their home in the Central American University (UCA) of San Salvador. The Jesuits were administrators and teachers at the University. The Government entrusted investigations into the murders with the 'Investigating Commission into Criminal Acts', with the assistance of foreign police officers. On 19 January 1990, a charge was filed against Colonel Guillermo Alfredo Benavides Moreno, Director of the Gerardo Barrios Military School, two lieutenants and five lower-ranking officers for their alleged responsibility for the murders. According to information received, Colonel Benavides was in charge of the military patrol for the University area on the night of the murders. The other officers are members of the 'Atlacatl' Rapid Response Infantry Battalion. Complaints have subsequently been received about irregularities in the legal proceedings under way, including ill-treatment of key witnesses (allegedly in the case of Lucia Barrera de Cerna) and of deliberate concealment of evidence that could implicate higher-ranking officers as the people behind these serious acts.

According to other sources, members of the Church received death threats. In March 1990, a communiqué from the so-called Alto Mando de los Esquadrones de Muerte (Death Squads High Command) threatened that, if all the members of the armed forces implicated in the massacre of the Jesuits were not freed before Easter Week (8-15 April 1990), they would 'eliminate all the members of religious denominations and civilians involved in the case'. The communiqué, which was sent to the local press, was also sent to churches, trade unions, political parties, professional organizations and to accredited diplomatic missions in the country.

(b) Arbitrary detentions

A complaint has been made that, on 19 and 20 November 1989, nine members of the St. John the Baptist Episcopalian Church were arrested in church by the National Guard. All the detained were also members of the Association for the Development of Awareness for Man's Spiritual and Economic Revival (CREDHO), a social programme of the Episcopalian Church.

The detained were:

Juan Antonio 'Berti' Quiñones

Luís Gustavo López

José Eduardo Sánchez Castillo

Randolfo Campos Benavides

Alex Antonio Tovar Flores

José Candelario Aguilar Alvarez

José Horacio Guzmán

Julio César Castro Ramírez

Luis Serrano

All the above persons were subsequently released in December 1989 and January 1990. According to them, they were held on the premises of the National Guard and subsequently at Mariona and Santa Ana prisons, on charges of taking part in an armed action by the Farabundo Martí National Liberation Front (FMLN). Father Luis Serrano and Juan Antonio Quinoñes said they had been beaten and threatened when they were in custody.

It is maintained that, on 30 November 1989 the Treasury Police launched an assault against the parish church in Ciudad Credisa in San Salvador and arrested three persons cooperating in the Colonia 22 refugee project. They were:

Estela Cruz Bustamante

José Santana López

Santiago de Jesús Vázquez

According to their allegations, they were beaten, threatened, forced to wear hoods and deprived of sleep while they were held at the main barracks of the Treasury Police. They were released on 6 February 1990, 31 January 1990 and in December 1989, respectively. They had been accused, without grounds, of cooperating with FMLN.

Furthermore, it has been reported that, on 19 January 1990, armed civilians detained Marina Isabel Palacios, a member of the Christian Committee for Displaced Persons in El Salvador (CRIPDES) in the centre of San Salvador. Weeks later it was learned that she had been detained by members of the 'Police Honour Battalion' and subsequently transferred to the Ilopango prison, where she was allegedly held on the charge of being a 'terrorist criminal'.

According to information received, three other persons who were members of the Emmanuel Bautista de San Salvador Church were detained on 25 January 1990 by armed civilians. They were:

Víctor Manuel Fuentes

Carlos Armando Avalos

Inocente Garay

Although there is no precise information on their arrest, it was learned that they had been in the hands of the Treasury Police. The first two were released on 29 January 1990 and the third of them is allegedly still being held, on charges of being a guerrilla.

(c) Detention and expulsion of foreign helpers of churches

Complaints have been received about the following cases:

Jennifer Casolo, the representative in El Salvador of the 'Christian Educational Seminars' organization who was detained on 25 November 1989. She was held for 18 days in Ilopango prison, released on 13 December 1989, and deported to the United States.

Father Miguel Andueza, a Spanish Dominican priest, who was detained by uniformed persons on 20 November 1989 in Santa Ana.

Reverend Brian Rude, of Canadian nationality, who was detained on 11 November 1989 by the security forces and expelled from El Salvador.

(d) Death threats and harassment

It has been reported that Catholic Archbishop Rivera y Damas received telephone death threats, as did Lutheran Bishop Medardo Ernesto Dénez Soto, who was forced to flee the country following bomb explosions at Lutheran churches on 28 December 1989 and 10 January 1990. Other sources have affirmed that the Jesuit Provincial in El Salvador also received death threats.

According to other sources, on 23 November 1989 soldiers distributed a broadsheet in Teotepeque, accusing six members of the town's parish church of being communists and enemies of the people. The broadsheet was signed by a so-called 'Permanent Committee for National Salvation'."

34. In a reply dated 18 November 1991, the Government of El Salvador supplied the following information:

"The annex raises questions about the investigation of the murder of the six Jesuit priests, their cook and her daughter on 16 November 1989. The question is also raised of what happened to Marina Isabel Palacios, who you say was transferred to Ilopango Prison, accused of terrorist activities.

As regards the investigation into the case of the Jesuit priests, a trial was held and a jury court found two of those involved guilty. The judge subsequently sentenced those two (Colonel Benavides and Lieutenant Mendoza). It is felt in El Salvador that the murder of the Jesuit priests, some of whom had lived in El Salvador for many years with Salvadorian citizenship, was not attributable to their status as members of a religious order. The same year the terrorists murdered the former Jesuit, Mr. Francisco Peccorini; the cowardly murder of this distinguished thinker was not presented as religious persecution but as a political act."

35. In a communication sent on 8 October 1991 addressed to the Government of El Salvador, the following information was transmitted by the Special Rapporteur:

"According to information received, there are continuing violations of the human rights of religious leaders and persons belonging to particular religious denominations which are involved, out of social commitment, in work with the most disadvantaged classes of society. Although these cases are continuing to take place in a situation of widespread violence, the sources state that these persons were presumably the victims of violence because of their pastoral and church work. It is reported that the groups operating against these persons do so with the support of the armed forces. Attention is drawn to the following cases:

Bishop Medardo Gómez, President of the Salvadorian Lutheran Synod, is said to have received death threats on Monday, 15 July 1991, from the Salvadorian Anti-communist Front. Bishop Gómez had already received threats in 1989 and 1990, bombs were placed in his church on various occasions and many of those working with him were persecuted for performing their pastoral duties. He was also abducted for two days by a death squad in 1983, for supposedly collaborating with the guerrillas, during which time he was chained to a wall and given no food until he was handed over to the national police. In February of this year, Bishop Gómez was the subject of a defamatory campaign through a series of articles in the Salvadorian press accusing him of having links with the guerrilla movements.

According to other sources of information, the nuns of the Little Community in San Salvador have been persecuted, have received death threats and have had their residence searched. It is reported that between 2 and 5 July 1991, the sisters received telephone calls threatening them, insulting them, accusing them of being guerrillas and telling them that they were under constant watch. A man's voice urged them to leave their religious premises in Primera Calle Poniente No. 3516 in San Salvador, saying that further action would soon be taken against them, as they had already been warned. According to the source, on 6 July 1991 their residence was searched, as they realized on finding the main door open and the house in darkness. The shrine in the chapel had been moved from its place, the religious community's three files had been forced open and the papers were scattered over the floor. A packet containing the sum of 40,000 colones intended for assistance to the poor had disappeared. The dormitories were in a state of disorder and the nuns' clothing had been turned upside down, including their work clothes in the garage. The cupboards had been thoroughly searched and their contents taken out and scattered about the floor. On the same day a vehicle was observed passing by the house of the Little Community, and two rifle muzzles were seen pointing out of the window at the Little Community. There were also other incidents which made the nuns fear for their lives and safety."

36. On 5 December 1991 the Permanent Mission of El Salvador to the United Nations Office at Geneva transmitted the following response to the above-mentioned allegations.

"The Salvadorian system of criminal procedure is fundamentally based on proceedings consisting of two phases: (a) an investigation phase, and (b) an adversarial phase, the two forming a single process. During the investigation, the necessary actions and procedures are performed to establish the existence of the offence, to find out who is or are responsible and to discover circumstances affecting the criminal liability of the accused (Criminal Procedure, art. 115).

The adversarial phase varies depending on the penalty provided by law for each act classed as a crime.

The particular case of the Jesuits is being dealt with in ordinary proceedings, in which the adversarial phase began with the 'decision to send the case for trial'. The essential aspect of this phase is the public hearing before a jury court. This court is regulated by the Constitution (art. 189) and will consist of five persons appointed as jurors (Criminal Procedure, art. 315), who have to be over the age of 21, to be in full possession of their civil and political rights, to know how to read and write, to be of good conduct and to have a recognized profession, art, office or occupation (Criminal Procedure, art. 318).

In this particular case the jury was made up of three men and two women, who met all these requirements and had been selected by the proper legal process (Criminal Procedure, art. 345). This court is required to deliberate and reach a finding on the guilt or innocence of the accused, and its decision is embodied in an instrument known as the verdict, which is based on the conscience and inner conviction of the members of the jury. This means that the assessment of the evidence is made in accordance with their inner conviction; the law does not require them to state how they have arrived at that conviction, nor does it lay down rules for determining whether the evidence is sufficient. The law merely asks them to ponder the matter themselves, in silence and tranquillity, seeking to let their consciences speak and to determine the impression made on their minds by the evidence produced for and against the accused. That is why the law does not ask them 'would you say this was true?', but 'have you an inner conviction?' (Criminal Procedure, arts. 347 and 363).

The jury court's decision is based on questions put to it by the judge, to which its members have to reply just 'yes' or 'no' in a secret vote.

The jury court which heard the Jesuits' case gave its verdict in the manner described, convicting Colonel Guillermo Alfredo Benavides and Lieutenant Yusshy René Mendoza and acquitting Lieutenant Ricardo Espinoza Guerra, Sub-Lieutenant Gonzalo Guevara Cerritos and Privates Antonio Romero Avalos, Tomás Zarpate Castillo, Angel Pérez Vásquez, Oscar Marian Amaya Grimaldi and Jorge Alberto Cerna Ascencio (the last in his absence).

The reasoning behind this verdict is possibly that Colonel Benavides, Director of the Military School, and Lieutenant Mendoza, an instructor at the School, were wholly responsible for the acts committed by their subordinates, since it was they who gave the orders. The other accused did not belong to the Military School, but to another battalion; they were not informed of the facts and were simply carrying out the orders of their superiors in a state of war, which is what the offensive of November 1989 was. It was considered, therefore, that members of the armed forces of lower rank could not oppose their superiors, possibly for fear of the consequences of disobedience, it being obvious that in normal circumstances it was not in any way possible to invoke the argument of 'due obedience'.

The jury court is a manifestation of the sovereignty of the people, as represented by its members. Its finding cannot be questioned in any way and must be respected by the judge, who has to pass sentence on the basis of it and impose the penalties provided by law if the verdict is guilty. Questioning the verdict is totally unacceptable."

France

37. On 4 November 1991, the Special Rapporteur transmitted the following information to the Government of France, under annex I:

"According to information received, Mr. Ludovic Bouteraon, aged 22, reported to the military service selection centre in spring 1990 and informed the military authorities that he wished to be given the status of a conscientious objector to military service. He asked to do alternative civilian service of a kind that would be compatible with his beliefs. It is alleged that Mr. Bouteraon was not informed of the procedure to be followed in order to be recognized as a conscientious objector.

In July 1990, Mr. Bouteraon was ordered to report for military service on 1 August 1990 at an airbase near Strasbourg, which he did. On his arrival, he immediately stated that he had a conscientious objection to military service and refused to put on military uniform or carry arms. He was later arrested and held at the base until 17 August 1990, when he was brought before the 7th Correctional Chamber of the Court of Major Jurisdiction in Strasbourg, which sentenced him to 15 months in prison for insubordination. He was then transferred to Elsau prison in Strasbourg.

According to the sources, Mr. Bouteraon appealed against the decision and wrote to the French authorities on 8 August 1990, asking them to recognize him as a conscientious objector and to authorize him to perform an alternative civilian service. He repeated that he had not received information concerning the procedure to be followed when he was conscripted. In October 1990, the Minister of Defence rejected his request because it had been made after the statutory time-limit.

It was alleged that on 13 September 1990, Mr. Bouteraon, who is still serving his 15-month prison sentence for refusing to do military service, was transferred to a civilian prison at Colmar pending his appeal to Colmar Appeal Court on 6 November 1990. He is also said to have appealed to the Court of Cassation."

38. Additional information as follows was transmitted under annex II:

"The Special Rapporteur has received the following allegation from Miss Nour Ali. Miss Nour Ali made the allegation in an oral statement to the Commission on Human Rights at its forty-seventh session.

Miss Nour Ali, who is 12 years old, of Iraqi origin and a practising Muslim, says that she was refused admission to the Lycée international in Ferney-Voltaire, a State school, from October 1990, for wearing a headscarf. She wore the headscarf out of personal religious conviction, and had even done gymnastics with it for two years at primary school without any problem.

While aware of the fact that the countries of origin of persons who might find themselves in similar situations do not always apply reciprocity with respect to the religious tolerance required of the host country, the Special Rapporteur nevertheless wished to hear the official position of the French authorities on this matter."

Ghana

39. In a communication addressed to the Government of Ghana on 15 June 1990 (E/CN.4/1991/56, para. 61) the following information was transmitted:

"It has been reported that the Government has imposed a freeze on any activity of Jehovah's Witnesses. An official statement allegedly ordered that their meeting places remain closed throughout the country and that their office at Nungua stop operating. It has further been reported that Mr. Gaylord F. Burt, an American missionary, was expelled from the country on 15 June 1989, together with members of his staff."

40. A reminder sent on 14 May 1991 concerning the allegations of 15 June 1990.

41. On 18 June 1991, the Government of Ghana sent comments to the Special Rapporteur regarding the above-mentioned allegations.

"It is true that for moral as well as security reasons the activities of some religious sects have had to be temporarily frozen in Ghana and some foreign instigators expelled. However, there has been no persecution or harassment whatsoever against the members of such sects. The churches have been allowed to keep control of all church properties while the appropriate governmental organizations investigate those activities detrimental to the civic upliftment and development of the country.

It is rather unfortunate that some immigration authorities and human rights activists have accepted without question hideous allegations of persecution by economic refugees fleeing from their responsibilities in developing countries to greener pastures in developed industrialized countries.

It may be pointed out that not until developing countries have attained some higher level of development and industrialized countries have liberalized their immigration restrictions to nationals from developing countries, such lies and allegations would continue to be made."

Greece

42. In a communication sent on 25 April 1991 addressed to the Government of Greece, the following information was transmitted by the Special Rapporteur:

"According to the information received, a decree concerning a new procedure for the selection of Muftis has been issued on 24 December 1990. It has been alleged that the decree introduces interference in the determination of religious representatives by the Muslim community. It has been asserted in particular that it is the Prefect who establishes the commission examining the candidates and has the right to express his own opinion concerning their suitability. It has been further reported that the Minister of National Education and Religious Affairs has the final choice with regard to the candidate, which would make it an appointment rather than an election by the religious community itself. It has also been reported that the Mufti, who would be required to take a public service oath in the presence of the Prefect, could be dismissed by the Prefect who is allegedly also empowered to appoint a replacement."

43. On 31 May 1991, the Permanent Mission of Greece to the United Nations Office at Geneva addressed a reply to the Special Rapporteur regarding the above-mentioned allegations, which stated the following:

"The Legislative Act regarding Muslim Religious Ministers in Thrace provides as follows:

A. An enlarged committee is convened by the official, superior to the Prefect, namely the competent Regional Secretary-General. This committee chaired by the Prefect consists of Greek Muslim clergy and prominent Greek Muslim citizens. They propose to the Minister of Education and Religious Affairs a list of qualified persons (holders of a university degree of high Islamic School, national or foreign, or holders of _itzazetname_ diploma, or persons having served as imam for at least ten years and who distinguished themselves for their morality and theological proficiency). From among them, the Minister chooses on the basis of personal qualification of each candidate. The Mufti is finally appointed by presidential decree issued upon proposal of the Minister of Education.

In this connection it should be recalled that the appointment by the State of a head of clergy is common practice in countries where Islam constitutes the predominant religion (e.g. Egypt, Tunisia, Morocco, Jordan, Turkey, etc.).

It should also be emphasized that the designation of the Mufti through popular election would meet with a serious obstacle. For, as it is known, Greece is the unique western country to accept the exercise of jurisdiction by a head of Muslim clergy. Indeed the Mufti disposes of judicial jurisdiction extended to issues of family and inheritance law.

It is, therefore, clear that the appointment through popular election would jeopardize the implementation of the constitutional requirements of assigning judges by law (art. 8 of the Constitution) and the principle of the functional and personal independence of the judge - principles respected by most modern and orderly States.

B. A Mufti may be relieved of duties by presidential decree, upon request from the Minister of Education, in the following cases only:

(a) In case of an irrevocable condemnation for crime or misdemeanour, as provided in article 22 of the Code of Civil Servants;

(b) In case of deprivation of civil right for any reason;

(c) In case of illness hampering the exercise of his duties, or professional inadequacy, or conduct undignified or incompatible with his position and duties.

The concurrence of the conditions specified in category (c) is ascertained by decision of a council consisting of a second instance magistrate of Athens, as President, and a high or top-level official of the Ministry of Education and a Mufti or Mufti ad interim, as members."

44. On 4 November 1991, the Special Rapporteur transmitted the following information to the Government of Greece, under annex I:

"According to the information received, the elected Mufti (religious head of the Muslim community) of Xanthi, Mr. Mehmet Emin Aga, has been replaced as Mufti by Mr. Mehmet Sinikoglu who has been appointed by the authorities. Mr. Mehmet Emin Aga is said to have been elected by vote by a show of hands taken in 52 mosques of Xanthi district after the Friday prayer on 17 August 1990. It has been reported that four candidates took part in the election, with Mr. Mehmet Emin Aga receiving a large majority of votes. The results of the election are said to have been duly communicated to the Governor of Xanthi.

The Muslim community pointed out that the new law whereby a Mufti is appointed rather than elected is unacceptable to them. A petition submitted to the Parliament protesting the appointment was reportedly signed by all the religious leaders of this community which is said to have expressed its unequivocal opposition to the appointment of Muftis. It has further been reported that the Prelate of the Greek Orthodox Church and the Directorate of the Greek Jewish communities are both elected.

According to the information received, Mr. Mehmet Emin Aga was forcibly removed from office and expelled from its premises with the help of the police. He is said to have been ill-treated and to have subsequently suffered a heart attack. It has been reported that Mr. Mehmet Emin Aga was hospitalized and had gone on a hunger strike.

According to the sources, some 500 members of the Muslim community staged a peaceful sit-in demonstration on the morning of 23 August 1991 in protest against the appointment of the new Mufti and the violent manner in which Mr. Mehmet Emin Aga had been removed from office. The hundreds of policemen who are said to have been present reportedly hesitated to intervene and protect the demonstrators when 40 to 50 persons carrying stones, sticks and metal bars attacked them and wounded 36 persons. It has also been alleged that ten shops belonging to members of this community were damaged and that assaults on mosques were carried out preventing the Muslim community [from observing] their right to practise their faith."

45. On 30 November 1991, the Permanent Mission of Greece to the United Nations Office at Geneva transmitted the following communication to the Special Rapporteur:

"On 22 August 1991, the new Mufti of Xanthi, Mr. Mehmet Emin Sinikoglou, assumed his duties. Consequently, the interim mission of Mr. Mehmet Emin Aga, in charge after the death last year of Mufti Aga Mustafa, was terminated. However, Mr. Aga illegally refused to withdraw from the premises of the Office of the Mufti. He did so, only when health reasons (high blood pressure crisis) obliged him to be hospitalized, upon recommendation of medical doctors.

The new Mufti, Mr. Emin Sinikoglou, born in 1939 in the village of Echinos (Xanthi) had studied for six years in the Islamic religious schools of Komotini and Recat. He later attended the High Theological School in the University of Medina, from which he graduated in 1971. Following these studies, he did post-graduate work at the University of Baghdad.

Mr. Sinikoglou's selection as Mufti was conducted in implementation of Law 1920/4.2.1991 regarding 'Muslim Religious Ministers'. More specifically, the enlarged Committee consisting of Greek Muslim religious ministers and prominent Greek Muslim citizens had to examine the qualifications of the seven candidates. From among them, and upon the recommendation of the Committee, the Minister of Education and Religious Affairs finally selected one, namely Mr. Emin Sinikoglou, on the basis of his qualifications, personal and formal, to be appointed by presidential decree. The allegations contained in annex I of your letter, according to which a petition protesting this appointment and reportedly signed by all the religious leaders of the Muslim minority and submitted to the Parliament, are totally groundless.

In this connection, it should be stressed that it is obviously with the participation of the Muslim element, as described above, that the Hellenic Republic appoints the religious minister of the prefecture, who, apart from religious jurisdiction, disposes of administrative competence towards the religious ministers in his region and judicial jurisdiction on issues of family and inheritance law as well. It is perhaps useful to recall that Greece is a country accepting the exercise of judicial jurisdiction by a Mufti.

This very jurisdiction would suffer in case of designation of Muftis through popular election, harming thus their independence, as it would, inevitably, create and enhance a situation of political clientele. Such a designation would also jeopardize the principle of the functional and personal independence of the judge, a principle respected by most modern States. In countries where Muslims constitute the majority or live as a minority, Muftis are not elected. From Saudi Arabia to Turkey they are appointed by the State. To illustrate this, the recent nomination of several Muftis in Turkey should be mentioned.

As to the events of 23 August 1991, I would like to inform you as follows:

In the morning of 23 August 1991, a small number of Muslims from the mountainous area of Xanthi appeared on the streets of this town to contest Mr. Sinicoglou's taking office. In the afternoon of the same day, some 400 protesting Muslims held a sit-in. Later, in the evening, there were verbal altercations between young Muslims and Christians passing by, as well as some squabbling, but thanks to the decisive intervention of the police, the number of those slightly injured, both Christians and Muslims, was kept very low (13 persons). All of them were transported to the hospital and released the very same evening. Police authorities arrested two people who appeared to be leading the brawl and held them temporarily in custody.

Public order in Xanthi was subsequently restored and no material damage was reported."

46. Additional information, as follows was transmitted under annex II:

"According to the information received, Mr. Dimitrios Katharios, a religious minister of the Congregation of Jehovah's Witnesses appointed to the Prefecture of Evros, was summoned on 16 November 1990 by Mr. Philippos Karagiozidis, Rank II Police Officer of the Alexandroupolis Police Station, who informed him that, in accordance with an order issued by the Public Prosecutor's Office, he was obliged to close down and seal up the lecture hall used by the followers of the Jehovah's Witnesses faith in Alexandroupolis, in view of the fact that 'the hall in question was being used as a house of prayer and as a meeting place of the members of the sect of Jehovah's Witnesses'. On 19 November 1990 the hall is said to have been closed down and sealed up by the officers from the Alexandroupolis Police Station who reportedly indicated in their report that they had 'carried out the self-authorized closing down and sealing up of the House of Prayer and Meeting Place of the sect of Jehovah's Witnesses, using tape and Spanish wax'.

It has further been alleged that Mrs. Lydia Paraskevopoulou, a follower of the Jehovah's Witnesses faith, had been appointed as a substitute teacher at the Chanakia Grammar School, Ilia prefecture in the Peloponnesus, in November 1990. In December 1990 the primary education administration of the prefecture of Ilia reportedly recalled Mrs. Paraskevopoulou from her post, indicating that 'the duties and functions of each and every educator have been defined and cannot be adjusted to suit their particular standards and tastes, their peculiarities of behaviour and eccentricities'. A decision issued by the Director of Primary Education states that Mrs. Paraskevopoulou is to remain subject to inspection and not to appear at the school until the problem that has arisen is resolved. It has also been alleged that the Ministry of National Education and Religions recently refused to issue a teaching permit to a member of the Jehovah's Witnesses faith in order that he may teach English at a private tuition centre.

According to the sources, members of the Jehovah's Witnesses faith who are detained at the Avlona Military Prison are unable to satisfy their religious needs since they are denied visits by religious ministers belonging to their faith."

India

47. In a communication sent on 8 May 1991 addressed to the Government of India, the following information was transmitted by the Special Rapporteur:

"Since the allegations communicated by letter dated 10 November 1989, the Special Rapporteur has received additional information, according to which incidents of violence between members of the Hindu and Muslim communities have increased since the beginning of 1990, resulting in the deaths of hundreds of citizens, mainly of Muslim faith, and also in thousands of injuries. It has been reported that one estimate has placed the death toll at more than 5,000 since January 1990; 620 lives are said to have been lost in this type of violence from September to November 1990. It has further been reported that 151 persons have been killed in Hyderabad alone since 7 December 1990 while 400 were reportedly injured. More recently, incidents are said to have occurred in the cities of Agra, Ahmadabad, Aligarh, Kanpur and Meerut. It has also been alleged that Muslim localities and villages throughout the country have been repeatedly subjected to attacks. According to the sources, such incidents have culminated in the assault on the Babri Masjid Mosque in Ayodya on 30 October 1990, which resulted in the killing of five persons and considerable damage to the mosque. It has been reported that the police did not intervene to prevent the assault and that the assailants were finally driven out by paramilitary forces. The objective of this assault is said to have been the demolishing of the mosque which was built in 1525.

According to additional information received, incidents of discrimination of Christians have also occurred. Mr. Arun Kumar, a Forest Range Officer from Hyderabad, is said to have been recently dismissed from his job because he had converted to the Christian faith. It has further been reported that other Indian citizens of Christian faith have been victims of discrimination including convents of religious communities. It has also been alleged that the high school in Kumargram, built and run by a Christian priest, Fr. John Dung Dung, has not been officially recognized by the Government of West Bengal because it is a Christian educational institution."

48. On 19 November 1991 the Permanent Mission of India to the United Nations Office at Geneva transmitted the following information to the Special Rapporteur with regard to the above-mentioned allegations.

"At the outset, [the Permanent Mission] would like to mention that secularism constitutes the very foundation of India's democratic policy and the basis of India's unity in diversity. The right of freedom of religion is one of the fundamental rights guaranteed to all citizens by the Constitution of India. This includes the freedom of conscience and free profession, practice and propagation of religion and freedom to manage religious affairs. In India every religious denomination has the right to establish and maintain institutions for religious and charitable purposes, to manage its own affairs in matters of religion, to own and acquire movable and immovable property and to administer such property in accordance with the law. The Government of India, has, moreover, repeatedly reaffirmed its commitment to secularism, the rule of law and the protection of the rights of religious freedom for all. Furthermore, the Indian Constitution enjoins that it is the fundamental duty of every citizen to promote harmony and the spirit of common brotherhood among all the peoples of India transcending religious, linguistic and regional or sectional diversities. Thus, India attempts to ensure that its citizens remain committed to tolerance and allow others of different faiths and persuasions to fully enjoy their rights and freedoms.

The Government of India has also repeatedly enjoined upon civil servants and other public officials, including those entrusted with the maintenance of law and order to ensure that in the course of their official duty they fully respect different religions and beliefs and do not discriminate against persons professing other religions or beliefs.

Despite the sincerity of the Government of India to preserve religious harmony, instances of communal violence have occasionally occurred. Sometimes these have been the result of the activities of misguided persons or anti-social elements; at other times they have resulted from misunderstandings and prejudices among members of different communities. However, even violent incidents involving adherents of two different religions do not stem from attempts to forcibly stop the practice of one religion by followers of another religion, but due to a multiplicity of other reasons, many of which are often local in nature. There are even instances when law and order situations have been deliberately given a communal flavour by local vested interests. Nonetheless, it is totally incorrect to think that the Government of India is in any way responsible for or even encouraged such communal incidents or that it brings them about because of any form of religious intolerance. As outlined earlier, the Government of India has a completely secular approach. Whenever incidents involving communal violence have regrettably taken place, it has acted swiftly to bring the situation under control and punish those found guilty. When governmental agencies anticipate such incidents, pre-emptive action is taken to ensure that communal and religious peace is not disturbed. In a country of over 800 million people belonging to a multitude of religious faiths - Hindus, Muslims, Christians, Sikhs, Buddhists, Parsis, etc. - the maintenance of religious harmony is a daunting challenge; nonetheless, the challenge has been always met and tackled headlong.

As regards the allegations conveyed vide paragraph 1 of the annex to your letter, it may be pointed out that the occurrence of incidents involving communal clashes cannot in any way justify that the Government be blamed for religious intolerance. Rather such incidents have taken place on account of factors outlined above. As regards the incidents at Ayodhya referred to, the police and paramilitary forces both acted to prevent any damage to the disputed structure there. In the action taken by the police and paramilitary forces on 30 October 1990 and 2 November 1990 in this regard, 16 persons including a member of the security forces lost their lives. The Permanent Mission wishes to add that while incidents of communal violence have taken place in India, the estimate of death toll being 'more that 5,000' as a result of communal violence since January 1990 is quite grossly exaggerated. It is also incorrect to suggest that most of those killed or injured belong to any particular faith. Furthermore, the police and other law and order maintenance authorities have done their best to contain communal clashes and prevent them from spreading.

As regards the allegation contained in paragraph 2 of the annex to your letter, the allegation of discrimination against Christians is without basis."

Indonesia

49. In a communication sent on 1 November 1991 addressed to the Government of Indonesia, the following information was transmitted by the Special Rapporteur:

"According to the information received, followers of the Baha'i faith in Indonesia have been subjected to systematic persecution solely on the basis of their religious beliefs. It has been alleged that all Baha'i administrative institutions have been dissolved, all Baha'i schools closed and all of their properties, including a National Centre, have been confiscated.

It has further been reported that members of the Baha'i community have been subjected to surveillance, arbitrary arrests and detention and that a number of Baha'is have been imprisoned from periods ranging from a few days up to five years. Their employment and promotion opportunities have reportedly also been restricted. It has been alleged that Baha'is have been pressured to renounce their faith and invited to adopt one of the five other religions recognized under the Constitution. Baha'is have allegedly been asked to formally renounce practising their faith, both privately and publicly and continue to not be allowed to pray even in the privacy of their own homes. Baha'i children are said to have been expelled from school and their books have been seized."

Iran, Islamic Republic of

50. In a communication sent on 20 May 1991 addressed to the Government of the Islamic Republic of Iran, the following information was transmitted by the Special Rapporteur:

"According to the information received, Reverend Hossein Soodmand (aged 55), an Iranian citizen of Christian faith who had converted from Islam, was executed on 3 December 1990 in Mashad because of his religious beliefs. It has been reported that Rev. Soodmand converted to Christianity more than 20 years ago, but was ordained as minister for the Assemblies of God church in Gorgan approximately two years ago. He is said to have previously been employed in the Iranian Bible Society, in a Christian hospital in Isfahan and a mission for the blind.

It has been alleged that Rev. Soodmand was first arrested and blindfolded, and subsequently interrogated in September 1990 in Gorgan, where he was to become pastor since the church he served in Mashad was reportedly closed on governmental orders in 1988. He was reportedly imprisoned for 28 days. Upon release he allegedly returned to his home town, Mashad, where he is said to have been re-arrested and interrogated, and was imprisoned for an additional 28 days. It has been alleged that during this incarceration, Rev. Soodmand was physically tortured.

It has further been reported that when Rev. Soodmand returned to Gorgan, he was arrested once again and ordered to return to Mashad. In Mashad, he was arrested for the fourth time and imprisoned on charges of apostasy from Islam, propagating Christianity, disseminating Christian literature and establishing an illegal church. It has been reported that Rev. Soodmand was subjected to both psychological and physical torture and ill-treatment while in custody for refusing to recant his faith.

According to the sources, Rev. Hossein Soodmand was hanged in Mashad on 3 December 1990. It is not known whether he was tried or, if this were the case, whether the trial conformed to internationally accepted standards of a fair trial. Rev. Soodmand's family was reportedly not accorded visitation rights and was not informed of his situation until after the execution had taken place. It has also been alleged that his body was not released for burial, although a number of pastors in Mashad were reportedly shown a coroner's report indicating that Rev. Soodmand was dead. He is said not to have been buried in a cemetery but a location described as unsuitable for a respectful burial.

According to additional information received, Mehdi Debadj, an Iranian citizen of Christian faith who had converted from Islam approximately 25 years ago, has been imprisoned since 1983 because of his religious beliefs. Mr. Debadj, who is a Bible teacher and translator, was reportedly arrested in 1983 and detained in Babol, had been released temporarily when the church paid $US 20,000 as security. He is said to have been re-arrested shortly thereafter and subjected to torture in order that he may renounce his faith.

It has been alleged that since his re-arrest and incarceration Mr. Debadj has been transferred from prison to prison throughout the country. It has also been alleged that his children, who have to rely on other persons for support, were last allowed to visit him months ago and that his whereabouts have been unknown since that time. It is also not known whether Mr. Debadj is still alive.

I also received several reports alleging that the Government has required all Christian churches to re-register after the Parliament had approved the recognition of churches through re-registration six years ago. It has been alleged that the Assemblies of God churches have submitted all the documents necessary for re-registration more than three years ago but have still not been able to register. The Ministry of Culture and Islamic Guidance reportedly closed in July 1989 the Christian training centre Garden of Evangelism in Tehran which had been used for pastoral training for over 45 years. It is also reported that the same Ministry closed the Christian church in Sari, northern Iran, in 1988 and that its pastor had been forced to leave the city. In addition, it has been alleged that several Christian churches and bookstores have been closed, that Christian conferences have been prohibited and that the Government has to authorize the performing of Christian weddings and church outings. Authorities are said to have urged Iranian citizens of Christian faith 'not to contact the West'.

It has been reported that the Government had interfered in the work of the Iranian Bible Society before it was closed by not allowing it to send its annual report to churches within the country. It is said to have also prohibited the import of Bibles in the Persian language as well as the use of words 'Son of God' or 'Lord' to refer to Jesus Christ, only allowing that he be designated by the word 'Prophet'.

According to additional information received, many Christians who had converted from the Muslim faith are said to have been repeatedly threatened with imprisonment or imprisoned, notably in Ahwaz. It has been reported that the pastor of the Assemblies of God church in Ahwaz had been arrested and imprisoned in 1987 for one month and was subsequently taken to Tehran where he was obliged to report once a week to the Komiteh. The pastor who replaced him is said to have also been arrested and imprisoned and made to leave for Tehran. The Ministry of Culture and Islamic Guidance reportedly closed the church and its property was confiscated.

It has been alleged that on 7 December 1990 the pastor of the 'Injili' Presbyterian Church in Tabriz was arrested and is detained in Tabriz prison. The 'Injili' Church has reportedly also not been able to re-register. It has also been alleged that another Christian belonging to the Niloo Church in Tehran who had converted from the Muslim faith was imprisoned for one month in September 1990. Both persons were reportedly tortured and are said to have recanted their faith in writing. They were allegedly released from prison when they adopted Islam."

51. In a communication sent on 31 October 1991 addressed to the Government of the Islamic Republic of Iran, the following information was transmitted by the Special Rapporteur:

"Situation of Iranian citizens of the Baha'i faith

According to the information received, Baha'is are said to still officially be considered as 'unprotected infidels' and are denied legal recognition. It has furthermore been reported that, although there has been some improvement in individual circumstances of members of the Baha'i religious community in recent years, it would appear that a systematic violation of their rights solely on the basis of their religious beliefs continues.

It has been reported that the opportunities of Baha'is in both the public and private sector continue to be restricted. The economic and social discrimination ranges from dismissal from Government employment, orders to return salaries received as public employees, suspension of salary or pension payments, invalidation of work permits, denial of unemployment benefits, confiscation of ration booklets, denial of participation in social welfare activities, inability to enforce business contracts, collect insurance or qualify to inherit family properties.

It has been alleged that Baha'is are not allowed officially to open their own businesses and Baha'i farmers are said to not be admitted to farmers' cooperatives which would enable them to obtain agricultural credits, seeds, pesticide and fertilizer. It has also been reported that numerous private and business properties such as houses and farms have been arbitrarily confiscated and sold at government auctions or put up for sale, most recently in the city of Yazd, without any consideration of the appeals of the Baha'is concerned. A number of widows and elderly persons are said to have been evicted from their homes. Many Baha'i-owned administrative centres, holy places, historical sites, cemeteries and other assets continue to be confiscated or have been destroyed.

As a religious community, Baha'is reportedly continue to be regarded as members of the 'misguided Baha'i sect', are denied [the right] to freely express their religious beliefs, the right of assembly and the right to maintain their religious administrative institutions. Baha'is are allowed to assemble only in limited numbers in private homes. All community property such as places of worship allegedly remains confiscated, they are not allowed to elect their leaders or organize administrative institutions to govern community affairs or operate religious schools. In January 1991, members of the Baha'i faith in Karaj, Mashhad, Sari and other cities were notified by the Ministry of Security and Information to stop educating their children in Baha'i spiritual and moral values and such classes were reportedly closed throughout the country by mid-January.

It has been alleged that Baha'is continue to be imprisoned because of their religion and that over 40 individual Baha'is were detained for periods from 12 hours to 120 days in 1990. In June 1991, three persons were arrested in Shiraz for refusing to promise that the Baha'i community in that city would cease to practice its faith. Thirty-one Baha'is were reportedly detained during the first six months of 1991 and the following five Baha'is were allegedly imprisoned as of 15 September 1991:

1. Mr. Muhammad Dihgan (Shiraz)

2. Mr. Habibu'llah Hakimi (Shiraz)

3. Mr. Bakhshu'llah Mithaqi (Karaj labour camp)

4. Mr. Kayvan Khalajabadi (either in Gohardasht-Karaj or Evin-Tehran)

5. Mr. Bihnam Mithaqi (either in Gohardasht-Karaj or Evin-Tehran)

Baha'i marriages and divorces are allegedly not legally recognized and Baha'i children have difficulties in obtaining legal documents and inheritance as a result of being considered as illegitimate and are deprived of the right to inheritance from Muslim parents or relatives. Baha'is are said to be denied access to colleges and universities and cannot be employed by university faculties.

When applying for passports, Baha'is are reportedly treated rudely and are invited orally to recant their religion in order to obtain a new passport or have their current ones renewed or extended. It has been alleged that out of 380 applications for passports by Baha'is in 1990, only 61 passports had been issued, mostly to sick and elderly persons. No passports were allegedly issued to Baha'is since March 1991 and 400 applications were awaiting to be processed as of June 1991.

Followers of the Baha'i faith are reportedly experiencing difficulties in burying their dead in Babul, Babulsar, Chalus, Hamadan, Sari and many other cities. It has been alleged that numerous Baha'i cemeteries have been destroyed or desecrated and that graves have been destroyed while tombstones were removed and sold. It has been reported that two schools have been built in a section of the Baha'i cemetery in Tehran and that the construction of additional buildings in the same cemetery is planned.

The following specific cases and incidents have been reported:

Dismissal from Government employment

The appeal of Mr. Abdul-ali Yazdani from Tehran to receive compensation for his dismissal from the Vahid Autobus Company due to the fact that he is a Baha'i was reportedly turned down by the Committee of the Department of Employment Disputes of the Ministry of Employment and Social Affairs, in confirmation of the verdict of 23 January 1990, in view of the fact that working relations are severed with the members of this sect and that he himself has explicitly admitted that he is a Baha'i.

Mrs. Nayyirih Gandum-Pakkun, a schoolteacher who had been employed by the Ministry of Education, District 5 of Isfahan Province, was reportedly sentenced to permanent dismissal from government offices/services and was charged with 'membership in the misguided Baha'i sect'. The Civil Council for Investigation of Administrative Offences of the Department of Education for Isfahan Province found 'that her guilt is established according to Section 2, Act 19 of the law of the Council of Administrative Offences ... on the basis of the fact that Mrs. Gandum-Pakkun herself admits to being a member of the misguided sect of Baha'ism and is even proud of it' and the verdict of her permanent dismissal from government services was unanimously confirmed.

It has been reported that on 17 October 1990, the Civil Council for Investigation of Administrative Offences of the Ministry of Education in Mazandaran Province unanimously decided that Mrs. Varqa'iyyih Talibi, a teacher from Sari, be sentenced to permanent dismissal from government services in view of the fact that, in a letter dated 6 October 1990, 'the accused confirms that she is a member of the misguided Baha'i sect and in the letters addressed to this Council as well as to the headquarters, this fact is personally emphasized by her'.

On 30 October 1990, Mr. Hadi Gurji Mahfurujaki received a confirmation of his sentence 'to permanent dismissal from government employment as a result of his membership in the misguided Baha'i sect' and his subsequent complaint for nullification of the verdict was also rejected. The Ministry of Justice reportedly indicated that his petition '... was rejected on the grounds of being out of date, and considering the fact that Baha'ism is a belief against God and human dignity, and as with reference to petition dated 30 June 1990, he has clearly stated that he is a member of the misguided Baha'i sect, and further as it is not befitting for the sacred order of the Islamic Republic of Iran which has come into being through the shedding of the blood of hundreds of thousands of sacrificial and godly people, to keep as its member such an individual who openly announces his membership of a sect which is against the sacred order of the Islamic Republic, and considering the fact that a decision has already been made and the verdict of the Court of Administrative Justice is final, his complaint is therefore legally groundless'.

Suspension of pension payments

In view of the verdict issued by the Reviewing Committee of the Manpower Section of the Ministry of Health, the Department of Social Security informed Mrs. Kayhandukt Thabitiyan from Babul on 28 October 1990 that, since 'the late Mr. Manuchihr Dirakhshaniyan was sentenced to permanent dismissal from service in all government offices (as a result of his membership of the misguided Baha'i sect), the payment of his pension to his survivors is not legally permissible'. In a letter dated 19 September 1989, Mr. Derakhshanyan had been informed by the Department of Social Security that as 'you are permanently dismissed from employment by the government or any governmental agency (on the basis of the allegation of your belonging to the misguided sect of Baha'ism). Therefore, payment of your retirement pension is not legally permissible'.

According to the sources, Mr. Hayat Afshar from Ahvaz, a retired employee of the National Oil Company was denied his past and present pension payments since, 'Due to his membership in the misguided sect of Baha'ism, ... Mr. Hayat Afshar is permanently dismissed from government employment, and according to the regulations issued by the Council for Investigating Administrative Offences on 16 March 1986, employees who have not yet submitted an appeal do not have the right to do so any longer.'

Mr. Hossein Fateri was informed by the Forestry Department on 19 March 1991 that 'we would like to inform you that the discontinuation of your pension payments was based on the recommendation of the Reforming Council of the Ministry of Agriculture and in execution of the instructions received from the previous Minister of the Department of Agriculture which was issued on 3 June 1981 the reason for which is your membership in the misguided Baha'i sect. In view of the facts mentioned above, therefore, your pension payments can in no way be restored'.

Dismissal of complaints concerning members of the Baha'i community

The Civil Court of Abadih informed Mr. Azizu'llah Gulzar who registered a complaint in an exchange transaction, that 'the Civil Court of Abadih states that transactions with members of the Baha'i sect are not valid'.

According to the information received, the Public Prosecutor of Karaj issued a 'verdict for the acquittance of the accused (Mr. Seyed Asadu'llah Kumayzi, accused of the unintentional murder of his cousin as a result of his negligence in driving) from the payment of the blood-money' to the family of the deceased since, 'according to the statement of the accused and the immediate family of the victim, Firaydun Kumayzi, was a Baha'i. The family has clearly indicated this fact, and it has been registered by the Court. The rest of his family are also followers of this sect. Even if they were to announce their belief in Islam, they would still be considered heretics because according to their belief, another Prophet, Baha'u'llah, has appeared after His Holiness Mohammad, which is sufficient evidence for them to be condemned to infidelity. Therefore, as the infidelity of the late Firaydun Kumayzi is evident to this Court, ...' In addition, it has been indicated that 'If guilt had been proven, application of the 'equality' clause No. 12 ... of the Supreme Court of Appeal, the 'religious blood-money' (Shariah law or canonical law), could have been applied. (This however does not apply in this case because the murdered did not deserve it. This law does not apply to infidels...)'

Situation of Iranian citizens belonging to the Zoroastrian community

According to additional information received, followers of the Zoroastrian faith, which is one of the four religions officially recognized by the Constitution of the Islamic Republic of Iran, have on occasion been subjected to persecution such as harassment, torture and ill-treatment, kidnapping, arbitrary arrests, imprisonment without charges or trial, denial of passports, closing of businesses and denial of employment, attending compulsory classes in Islamic ideology, forcible conversion to Islam and marriage to persons not belonging to the Zoroastrian faith.

Situation of Iranian citizens belonging to the Assyrian community

According to the information received, members of the Assyrian community, another of the four officially recognized religions, are being harassed and threatened with imprisonment in Orumiyeh, West Azerbeyjan. Assyrian shopkeepers allegedly have to display signs in their shop windows indicating their religious faith, which has entailed a decline in their sales."

Iraq

52. In a communication sent on 11 June 1991 addressed to the Government of Iraq, the following information was transmitted by the Special Rapporteur:

"According to the information received, the Shia Muslim community in Iraq has been subjected over the past decade to various practices inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief. In particular, it has been alleged that institutions of religious education have been systematically destroyed and religious leaders and scholars persecuted and killed. The Special Rapporteur has received allegations that in the course of recent months, the Shia Muslim community has suffered particular discrimination and that an estimated 20,000 persons were recently killed in the cities of Karbala and Najaf within the framework of an anti-Government uprising which had erupted among the Shia population at the end of the Gulf war.

It has also been alleged that the 1,000-year-old universities of Najaf and Karbala have recently been closed down, while the Dar-al-Hikma, Qaswini and Seleemiya schools have sustained significant damage. The Al-Khoei school, located opposite the Imam Ali shrine in Najaf, was said to have been razed to the ground.

According to the sources, it is estimated that some 800 members of the clergy (300 teachers and 500 students) have recently been rounded up in the holy cities of Karbala and Najaf and are currently missing. It is feared that many have been executed. The fate of their families, including women and children, is also said to be unknown. It is estimated that the total number of the clergy and their families is 5,000 in Najaf alone. It has been reported that all the religious scholars in the holy cities have either been killed or arrested and that a certain number had been shot in the street. This is reportedly the case of 65-year-old Sheikh Ali Ashgar Ahmadi.

The Special Rapporteur has also been informed that the traditional call to prayer and pilgrimage to the holy shrines in Karbala and Najaf, which contains the tenets of Shia Islam, have been banned. The holy shrines of Shia Islam are said to have recently been desecrated, to have sustained considerable damage and to have been sealed off from worshippers. Public prayers are also said to have been banned. It has further been alleged that valuable religious books from a number of libraries have been burnt.

Situation of Afghan religious scholars residing in Iraq

The Special Rapporteur has received additional allegations affirming that a number of distinguished Afghan religious scholars who were residing in the cities of Kaazmin, Karbala and Najaf have either been killed or arrested. It is feared that those in detention are being subjected to torture.

Situation of the Grand Ayatollah as-Sayyid Abul Qasim Al-Khoei

It has been reported that on 20 March 1991 government forces carried out an armed raid on the traditional residence in Kufa, near the holy city of Najaf, of the Imam, Grand Ayatollah as-Sayyid Abul Qasim Al-Khoei (aged 95). According to the information received, the attack resulted in the death of numerous religious scholars, civilians from among the Imam's followers, and a considerable number of his guards. It has been alleged that on that occasion, the Grand Ayatollah was arrested together with his aides (eight religious scholars) and 10 members of his family (his daughter, son, daughter-in-law and seven grandchildren aged from three to 11). He is said to have been forced to walk over the dead bodies of his guards to the helicopter that transported him to Baghdad, where he was allegedly confined in a specially prepared detention centre.

The Grand Ayatollah subsequently appeared in a television interview which is said to have been conducted under duress. The Grand Ayatollah is said to have spoken in a low, weak and halting voice and appeared short of breath. While in captivity, he was reportedly subjected to severe mental torture and is said to have subsequently appeared exhausted and distressed. The Special Rapporteur has received copies of certificates with the diagnoses of two doctors who have both stated that the Grand Ayatollah's condition had obviously deteriorated between the videos taken in Baghdad and Kufa and that he required urgent medical care, which was allegedly denied. Requests for transfer abroad for medical treatment have reportedly also been refused.

The Grand Ayatollah is said to have been brought back to Kufa on 23 March 1991. Upon his return to Kufa, the Grand Ayatollah, who was in the habit of receiving Shia Muslims from all over the world, is reported to have been placed under house arrest and is allegedly no longer allowed to receive visitors, while his residence is said to be surrounded by armed men. It has also been reported that the Grand Ayatollah's son, Sayyid Muhammad Taghi Al-Khoei, the only member of his family allowed to see him, is also under house arrest with his father. Requests for relatives to see the Grand Ayatollah in view of his state of health are said to have been turned down. A number of other relatives are said to still be detained and there is no news of their whereabouts.

As the movements of the Grand Ayatollah, who is Rector of the Theology Centre of Najaf and has supervized advanced post-graduate studies for the past 50 years are restricted, teaching at this institution has reportedly come to a standstill.

The following eight aides to the Grand Ayatollah were arrested with him and are reportedly still under detention:

Sayyid Mohammad Reza Mousavi al-Khalkhali

Sayyid Ja'far Bahrul Uloom

Sayyid 'Izzaddin Bahrul Uloom

Sayyid Muhyaddin al-Ghuraif

Sayyid Muhammad Ridha al-Kharsan

Sayyid Muhammad al-Sabzwari

Sayyid Muhammad Ridha al-Sa'idi

Sayyid Muhammad Saleh 'Abd al-Rasul al-Kharsan.

The first three of the above-mentioned religious scholars are believed to be detained at an undisclosed location in Baghdad. The whereabouts and fate of the other five have been unknown since 21 March 1991. It is feared that some may have been killed or that they are being subjected to torture and risk execution.

The Special Rapporteur has also received allegations concerning the detention of another senior Grand Ayatollah, Sayyid Abdul al-Sabzwari, the father of Sayyid Muhammad al-Sabzwari mentioned above. It has been reported that he is over 75 years old and is known to be in bad health."

53. In a communication sent on 14 June 1991 addressed to the Government of Iraq, the following information was transmitted by the Special Rapporteur:

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
His Eminence the Grand Ayatollah Aboulqassim Khouy	Iranian	1899	Shi'ite religious authority	20/3/91	Najaf	
Fatima Mohamed	"			"	"	Wife
Bibi Khamen Khouy	"			"	"	Daughter
Mohamed Taqi Khouy	"		Doctor of the faith	"	"	
Nozhat Mohamed Rida Khalkhali	"			"	"	Wife
Fayza Mohamed Taqi Khouy	"			"	"	Daughter
Jawad Mohamed Taqi Khouy	"			"	"	Son
Fatima Mohamed Taqi Khouy	"			"	"	Daughter
Ali Mohamed Taqi Khouy	"			"	"	Son
Lohya Ali Beheshti	"			"	"	Wife
Hawra Abdelmajid Khouy	"			"	"	Daughter
Haydar Abdelmajid Khouy	"			"	"	Son
Ibrahim Khouy						

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Hosnia Mohamed Taqi	Indian			21/3/91	Najaf	Wife
Hassan Ibrahim Khouy	Iranian			"	"	Son
Hussein Ibrahim Khouy	"			"	"	Son
Ali Hassan Beheshti	"	1904	Doctor of the faith	"	"	Together with his wife
Mehsen Hassan Beheshti	"		Theological student	"	"	Son
Jaâfar Hassan Beheshti	"		Theological student	"	"	Son
Alia Hassan Beheshti	"			"	"	Daughter
Akila Hassan Beheshti	"			"	"	Daughter
Abdelali Bazawi	"		Doctor of the faith	"	"	
Ali	"		Theological student	"	"	
Mohamed						
Hachmia Ali Beheshti	"					Wife
Fatima	"			"	"	Daughter

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Ahmed	Iranian			21/3/91	Najaf	Son
Mahmoud	"		Theological student	"	"	Son
Zineb	"					Daughter
Ali Sabastani	"		Doctor of the faith	"	"	Together with members of his family
...						
Mohamed Ridha	"		Theological student	"	"	
...						
...						
Mohamed Ridha Khalkhali	"		Doctor of the faith	"	"	
Iftikhar Moussawi Khalkhali	"			"	"	Wife
Amin	"		Theological student	"	"	Son
Ahlam Azzedin Ali	Iraqi			"	"	Daughter-in-law
Alala, Asma, Mohamed	Iranian			"	"	Children of Ahlam Azzedin Ali
Mohamed Taqi Khalkali	"		Doctor of the faith	"	"	

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Fatima Moussawi Khalkali	Iranian			21/3/91	Najaf	Wife
Ali Moussawi Khalkhali	"		Theological student	"	"	Son
Mohamed Moussawi Khalkhali	"		Theological student	"	"	Son
Layla Moussawi Khalkali	"			"	"	Daughter
Syed Mustafa	"			"	"	Son-in-law
Yamine Sayed Mustafa Bhar Al Ulum	"			"	"	Daughter of Sayed Mustafa
Sheikh Mortadha Borojordi	"					
...						
Mehdi	"		Doctor of the faith	"		Son of Sheikh Mortadha Borojordi
...						
Sheikh Nassiri	"		Student	"	"	Bachelor
Sheikh Ahmed Kadhimi Bour	"		Theological student	"	"	
Amina Ridha	"			"	"	Wife
Abdelaziz	"		Theological student	"	"	Son

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Sadek	Iranian		Theological student	21/3/91	Najaf	Son
Abdelamir	"		Theological student	"	"	Son
Mohamed Ibrahim Shirazi	"		Theological student	"	"	
Majda Moussa Bahr Al Ulum	"					
... ...						
Abdelhadi Shirazi	"		Theological student	"	"	
Zineb Mohamed Ridha Khalkhali	"					Wife
Hassan Hedi Shirazi	"		Theological student	"	"	Son
Hussein Hedi Shirazi	"		Theological student	"	"	Son
Zaryas Hedi Shirazi	"			"	"	Daughter
Mohamed Ali Shirazi	"		Theological student	"	"	

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Fatima Mashkout	Iranian			21/3/91	Najaf	Wife
...						
...						
Mohamed Hedi Shirazi	"		Theological student	"		Bachelor
...						
...						
...						
...						
Mohamed Sheikh Mohamed Taqi Irdali	"		Theological student	"		
Jawad Shirazi	"		Theological student	"		Son
Mohamed Hussein Shirazi	"		Theological student	"		
...						
Mohamed Ali Salari	"		Theological student	"		Son
...						

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Ahmed Mohamed Ali Salari	Iranian		Theological student	21/3/91		
...						
...						
Sheikh Muslim Dawari	"		Theological student	"		
...						
...						
...						
...						
Mortadha Khalkhali	"		Doctor of the faith	"	Najaf	Together with members of his family
...						
Mehdi Khalkhali	"		Theological student		"	Son of Mortadha Khalkhali
...						
Sadek Khalkhali	"		Theological student	"	"	"
Baqer Mehdi Khalkhali	"		Theological student	"	"	
...						

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Mirza Ali Gharoui	Iranian		Doctor of the faith	21/3/91	Najaf	
Zirina Zadeh	"		Theological student	"	"	
...						
Jawad Mirza Ali Gharoui Zadeh	"		Theological student	"	"	Son
...						
Sheikh Abulhassan Anwar	"		Doctor of the faith	"	"	
...						
...						
...						
Abdelhussein Qazouini	"		Doctor of the faith	"	"	
...						
...						
Habib Hosnayan	"		Doctor of the faith	"	"	
...						
...						
...						

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Hussein Qamshadi	Iranian		Theological student	21/3/91	Najaf	With members of his family
...						
...						
...						
...						
Hussein Jawad Al Ali	"		Theological student	"	"	Together with his brothers and persons in their charge
...						
...						
...						
...						
Sheikh Hussein Fadhili	"		Theological student	"	"	
...						
...						
...						
...						
...						
...						
...						

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Sheikh Mohamed Taqi Waïdh Zadeh	Iranian	1905	Doctor of the faith	21/3/91	Najaf	Together with members of his family
Sheikh Ali Waïdh Zadeh	"		Theological student	"		"
Sheikh Qassim Mohamed Taqi Waïdh Zadeh	"		Theological student	"		"
... ...						Together with his sons and persons in their charge
Sheikh Mohamed Isaïe Fayadh	Pakistani		Theological student	"		Together with members of his family
Mohamed Taqi Maraâshi	Iraqi		Theological student	"		"
...						
Mohamed Mohamed Taqi Maraâshi	"		Theological student	"		"
Ridha Maraâshi	"		Theological student	"		"
...						
Hassan Ridha Maraâshi	"		Theological student	"		Together with members of his family
Mortadha Kadhimi Khalkhali	Iranian		Doctor of the faith	"		"

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Mohamed Medhi Khalkhali	Iranian		Theological student	21/3/91		Together with members of his family
Sadek Khalkhali	"		Theological student	"		"
Hussein Khalkhali	"		Theological student	"		"
Abdelhadi Shirazi	"		Theological student	"	Najaf	Members of his family disappeared
Sheikh Fakhreddine Zikhani	"		Doctor of the faith	"	"	"
Sheikh Kadhimi	"		Theological student	"	"	"
Sheikh Mohamed Azlat	"		Theological student	"	"	"
Sheikh Mohamed Ali Fayrouz Bakht	"		Theological student	"	"	"
Mahmoud Maylani	"		Theological student	"	"	"
Sheikh Mohamed Nayri	"		Theological student	"	"	"
Sheikh Ali Dawry	"		Theological student	"	"	"
Sheikh Jaâfar Nayni	"		Theological student	"	"	"
Members of his family						
Mohamed Nayni	"		Theological student	"	"	"
Zahra Nayni	"		Theological student	"	"	"
Zineb Nayni	"			"	"	"

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Ala Essid Ali Bahr Al Ulum	Iraqi		Doctor of the faith	21/3/91	Najaf/ Amara	Members of his family
Ali Bahr Al Ulum	"	1963	Theological student	"	"	
Amin Bahr Al Ulum	"		Theological student	"	"	
Mustafa Bahr Al Ulum	"		Theological student	"	"	
Azzedin Bahr Al Ulum	"		Doctor of the faith	"	Najaf/ Mishraq	
Hassan Bahr Al Ulum	"		Theological student	"	"	Members of his family
Ahlam Bahr Al Ulum	"					
Aïda Bahr Al Ulum	"					
Zahra Bahr Al Ulum	"					
Jaâfar Bahr Al Ulum	"		Doctor of the faith	"	"	
Ahmed Bahr Al Ulum	"		Town planning engineer	"	"	
Jawad Bahr Al Ulum	"			"	"	

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Mohamed Ridha Bahr Al Ulum	Iraqi					Together with members of his family
Mohamed Hussein Bahr Al Ulum	"			21/3/91	Najaf/ Mishraq	"
Hassan Bahr Al Ulum	"			"	"	"
Mortadha Hojja	"	1958	Theological student	"	Najaf	"
Mohamed Hussein Mohamed Taki Bahr Al Ulum	"	1958	Theological student	"	"	"
Mohamed Ridha Khorassan	"		Doctor of the faith	"	"	"
Mohamed Mehdi Khorassan	"		Doctor of the faith	"	"	"
Salah Khorassan	"		Theological student	"	"	"
Mohamed Hedi Khorassan	"		Theological student	"	"	"
Mohamed Sadek Khorassan	"		Theological student	"	"	"

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Mohamed Salah Abdelrassoul Khorassan	Iraqi		Doctor of the faith	21/3/91	Najaf	Together with members of his family
Mohamed Ali Hedi Khorassan	"		Theological student	"	"	"
Mohamed Ali Al Hakim						
Mohamed Ridha Al Hakim						Together with persons in their charge
Mohamed Ridha Al Hakim						
Mohamed Taqi Al Hakim						
Mohamed Al Hakim	"					
Abdelamir Hassan Al Hakim	"					
Hussein Hamid Mohsen Al Hakim	"					
Saba Hisham Mohsen Al Hakim	"					Wife
Ahmed Abdelsahib Mohsen Al Hakim	"					
Haydar Amin Youssef Al Hakim	"					
Malok Jaâfa Habib Moumin	"					
Sheikh Mohamed Ridha Harzeddin	"					

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Sheikh Baqir Qorchi	Iraqi					
Sheikh Hedi Qorchi	"					
Sheikh Jabbar Fatlaoui	"		Theological student	21/3/91	Najaf	Together with all members of his family
Sheikh Salem Assadi	"		Theological student	"	"	"
Sheikh Kadhim Shibr	"		Theological student		"	"
Mohieddin Gharifi	"		Doctor of the faith	23/3/91	Najaf/ Amir	"
...						
...						
Mohamed Kalantar	"		Doctor of the faith	"		In charge of Najaf University; together with all members of his family

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Sheikh Mohamed Ridha Shabib	Iraqi		Doctor of the faith	23/3/91	Najaf/ Husseïn	Together with all members of his family
Member of the body ...						
Sheikh Ibrahim Nassirawi	"	1956	Theological student	"		
Iman	"					Wife
Ayman	"					Son
Ahmed	"					Son, children under 10 years of age
Oumna	"					Daughter
Amjad	"					Son
Sheikh Abdelghafar Nassari	"	1925 (or thereabouts)	Doctor of the faith	25/3/91	Amara	Governorate of Missan; together with all members of his family
Sheikh Hassan Nassari	"		Theological student	23/3/91	Najaf	"
Sheikh Hussein Nassari	"		Theological student	"	"	"

Name and first name	Nationality	Year of birth	Occupation	Date of disappearance	Place	Comments
Sheikh Ahmed Bahawli	Iraqi		University Professor	23/3/91	Najaf	Governorate of Missan; together with all members of his family
...						
...						
...						
Sheikh Mohamed Ali Bahawli	"		Theological student	"	"	"
...						
...						
...						
Sheikh Mohamed Hussein Harzeddin	"	1926 (or thereabouts)	Doctor of the faith	"	Najaf/ Amir	Together with all members of his family

54. On 8 August 1991 the following reply to the above-mentioned accusations was transmitted to the Special Rapporteur from the Government of Iraq:

"The competent Iraqi authorities have taken note of your letter dated 11 June 1991, addressed to Ambassador Barzan Ibrahim al-Tikriti, Permanent Representative of the Republic of Iraq to the United Nations Office at Geneva, and its annexes, concerning the allegations that you have received in regard to the so-called 'situation of the Shia Muslim community' in Iraq. The Iraqi authorities, while diligently studying the details of the incidents in question with a view to ascertaining and making known the true facts in a fully objective manner, wish to take this opportunity to express their appreciation for the concern that you have shown for this matter and for the opportunity that you have given to the competent Iraqi authorities to establish the facts and state their point of view.

It is well known that Iraq is the cradle of human civilization which, over the centuries, has made a major contribution to the heritage of mankind as a whole. In view of the disasters and foreign occupations to which it has been subjected for several centuries, Iraq would obviously not have been able to make such a contribution but for the humanitarian values and principles which were formulated and developed in its territory and among its people. However, this is not surprising since Iraq is a peaceful country in which religious and moral concepts, principles and ideals have coexisted in a fraternal atmosphere that enabled them to flourish, develop and interact with the noble values of the civilizations of other peoples and nations.

In the light of this historical fact and Iraq's time-honoured civilization, any person concerned with this matter will find it fairly easy to understand the real situation in regard to the social and religious composition of the Iraqi people, which is based on mutual understanding, brotherhood, interaction and endeavours to consolidate the humanitarian links between the various religions, communities and minorities that are coexisting in Iraq.

This situation should constitute the basis for any dialogue concerning the matter raised in your letter. Accordingly, we wish to state the following:

1. The Iraqi Government, represented by its competent authorities, is diligently endeavouring to preserve and develop religious centres with a view to promoting religious teachings and the humanitarian values that they comprise. This is a self-evident and incontrovertible fact which cannot be disregarded and official policy in regard to all the various types of religious institutions cannot be influenced by extraneous events and recent developments. That policy is in conformity with article 19 of the Iraqi Constitution, which stipulates that "All citizens are equal before the law, without discrimination on grounds of sex, race, language, social origin or religion". Article 25 of the Constitution further stipulates that "Freedom of religion, belief and religious observance is guaranteed".

2. In the wake of the aggression by the coalition forces led by the United States of America, after the ceasefire some Iraqi towns fell prey to disturbances, consisting in acts of aggression against persons and official, religious, social and educational institutions, as well as places of worship.

The precious cultural and historical contents of those institutions, including religious and other manuscripts and books, were burnt and destroyed and innocent citizens were subjected to all forms of plunder, murder and sexual assault during those disturbances, which caused widespread devastation and a breakdown of public order and security, as a result of which the lives and property of citizens were threatened. The competent authorities fulfilled their duty by suppressing those disturbances and subversive acts in order to put an end to the state of anarchy, protect public order and security, restore the rule of law and prevent any further violations thereof.

Those acts were manifestly instigated by foreign parties outside Iraq, which supplied their perpetrators with funds, weapons and personnel with a view to completing the second phase of the treacherous aggression to which Iraq was subjected, consisting in the destruction of its remaining socio-economic infrastructure.

3. The acts of subversion and aggression continued for several days before the competent official authorities were able to regain control and restore order and security in all aspects of daily life at the locations in which those criminal acts had been committed. In addition to the extensive material damage which they caused, those acts also took a heavy toll of lives among innocent citizens, regardless of their beliefs and religious affiliations, and also among the police and security forces and the subversives and infiltrators themselves. In fact, the subversives converted places of worship and official and religious institutions into headquarters in which they installed their command posts and in which they engaged in the most abominable acts of torture, murder and rape against innocent citizens who refused to collaborate with them.

Through their information media and their numerous links with well-known foreign bodies, the parties instigating those acts against the security of Iraq attempted to offset their failure to achieve their objectives, while maintaining their aggressive and iniquitous policy towards Iraq by endeavouring to bring Iraq into disrepute through allegations concerning the so-called 'situation of the Shia Muslim community' in Iraq and the practices and ill-treatment to which they are purportedly being subjected by the Iraqi authorities concerned.

4. In reply to the allegations contained in the annex to your letter, we wish to clarify the following points:

(a) The annex alleges that the 'Shia Muslim community in Iraq has been subjected over the past decade to various practices inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief'. The fact that this matter has been raised at the present time indicates an attempt to distort and conceal the truth and draw attention to past periods in which such allegations were not made.

(b) At the present time, it should be noted that about 500 persons were killed as a result of aggression and terrorism by saboteurs in the governorates of Karbala and Najaf. Moreover, many of those subversives were also killed or fled during the campaign to remove them from those two governorates.

(c) Mention was also made of the closure of the 1,000-year-old universities of Najaf and Karbala. In actual fact, Karbala has no Islamic university of that name; it merely has ordinary theological colleges that are below university standard. These colleges still exist and enjoy the protection and care of the State; religious classes are being held therein and none of them has been closed. There is a college, known as Najaf University, which is run by Muhammad Sultan Kalantar, a minister of religion, and in which classes are still being held in a normal manner. The al-Hikma theological college, which was built several years ago and was run by the al-Hakim family, was taken over by the aggressive subversives who used it as a command post, a prison and a place for the execution of innocent civilians. Consequently, that college suffered severe material damage and is currently being repaired and restored.

The Qazwiniya and Saleemiya colleges still exist and have not suffered any damage. It should be noted that the al-Khoei college, which is situated opposite the Imam Ali shrine, is in one of the areas covered by the project for the development and expansion of the Haidari courtyard. The college building was therefore expropriated, with the agreement of His Eminence the Imam, in return for fair compensation before the acts of aggression and subversion to which Iraq was subjected.

(d) With regard to the question of the university and the colleges in the governorates of Karbala and Najaf, it should also be noted that the city of Kufa has a university named after it. However, since its buildings and their contents were severely damaged as a result of the acts of aggression and sabotage, the competent authorities were obliged to transfer that university to the city of Hilla pending the completion of the repairs to the damaged buildings, after which the university will be transferred back to Kufa.

(e) Concerning the allegation that a large number of clergymen, teachers and students were rounded up in the cities of Karbala and Najaf and are currently missing, what actually happened was that 20 clergymen, with their families and children, sought refuge with the competent authorities and requested their protection during the acts of sabotage in view of their fear of being attacked by the saboteurs. They were provided with health care and appropriate accommodation and were subsequently returned safely to their homes and places of residence, at their own request, after the acts of sabotage had been suppressed. They included Muhammad Kalantar and his children, who are currently living in the city of Najaf. No clergymen have been detained in the city of Karbala.

In this connection, it must be emphasized that the Iraqi Government has always treated the clergymen of all religious communities with all due respect for their religious and social status. We can confirm that the clergymen in the governorates of Najaf and Karbala are still discharging their religious duties and leading completely normal lives without any harassment. The competent Iraqi authorities have no knowledge of any clergyman bearing the name of Sheikh Ali Ashqar Ahmadi living in Iraq or within the boundaries of the governorate of Najaf or any other governorate.

(f) As a result of the acts of sabotage and aggression, the holy shrines at Karbala and Najaf suffered severe material damage. The competent Iraqi authorities, being eager to restore them to their normal state, have begun to repair the numerous damaged parts, which has necessitated their temporary closure to visitors so that they can be reconstructed and restored.

(g) Except as already indicated in paragraph (f) above, no form of prohibition has been imposed on the call to prayer or on visits to the holy shrines which are centres of pilgrimage for Muslims of all religious confessions.

(h) With regard to the allegations concerning Afghan religious scholars residing in Iraq, we wish to emphasize that very few of them are residing at Karbala and Kadhimiya, although a larger number are living at Najaf. They are leading perfectly normal religious lives and enjoying the protection, care and respect of the Iraqi authorities in their capacity as guests of Iraq.

(i) When the acts of sabotage and aggression occurred, His Eminence Ayatollah al-Khoei and his son, Muhammad Taqi al-Khoei, requested an audience with the President of the Republic in order to express their condemnation of the acts of sedition. They were granted an audience which was broadcast by Baghdad television and other radio stations. The Imam's request to speak on television was granted and he repeated his condemnation of the acts of sabotage and sedition. The full text, as well as the video recording, of the audience are annexed to our letter.

His Eminence and his son also met foreign journalists at his place of residence in the city of Najaf.

(j) We wish to emphasize that neither Ayatollah al-Khoei nor any member of his family has been subjected to any form of constraint, detention, influence, pressure, coercion or house arrest. It is noteworthy that Ayatollah Abul Qasim al-Khoei is over 90 years of age and is therefore suffering from symptoms of ill-health. However, the State medical authorities are looking after his health, which is being periodically monitored by medical specialists.

His Eminence Ayatollah Abul Qasim al-Khoei has not expressed any desire to leave Iraq for purposes of medical treatment and is freely receiving visitors. His most recent visitor was Prince Sadruddin Aga Khan, the United Nations Coordinator of Humanitarian Assistance.

(k) Ayatollah al-Khoei's eight aides named in the note were not subjected to any form of detention and the information available to us indicates that Sayyid Muhammad Sabzwari is currently in Iran.

Sayyid Muhammad Taqi al-Khoei, Sayyid Muhammad Ridha al-Khurasan and Sayyid Muhammad Salih Abd al-Rasoul al-Khurasan are living in the city of Najaf. At the present time, we have no information concerning the others, although the competent authorities are conducting the requisite inquiries.

5. With regard to your note G/SO 214 (56-5) of 14 June 1991, we wish to state that the persons named below are currently living in the city of Najaf:

1. Muhammad Taqi al-Khoei
2. Jawad Muhammad Taqi al-Khoei
3. Ali Muhammad Taqi al-Khoei
4. Haidar Abdul Majid Khoei
5. Hassan Ibrahim Khoei
6. Hussein Ibrahim Khoei
7. Ali Hassan Bahshati
8. Muhsin Hassan Bahshati
9. Jaafar Hassan Bahshati
10. Alya Hassan Bahshati
11. Ali Sabastaai
12. Hassan Hadi Shirazi
13. Hussein Hadi Shirazi
14. Muhammad Hadi Shirazi
15. Muhammad Mahdi Shirazi
16. Taqi Ardabili
17. Ahmad Muhammad Ali Salari
18. Mirza Ali Jarui
19. Sheikh Abdul Hassan Anwar
20. Sheikh Muhammad Taqizadeh
21. Sheikh Ali Dudi
22. Muhammad Tayini
23. Zahra Tayini
24. Zainab Tayini
25. Murtadha Hujja
26. Muhammad Hussein Muhammad Taqi Bahr al-Ulum
27. Muhammad Ridha Khurasan
28. Muhammad Mahdi Khurasan
29. Salih Khurasan
30. Muhammad Hadi Khurasan
31. Muhammad Sadiq Khurasan
32. Muhammad Ali Hadi Khurasan
33. Muhammad Ali al-Hakim
34. Muhammad Taqi al-Hakim
35. Haidar Amin Yusuf al-Hakim
36. Sheikh Muhammad Ridha Izz ed-Din
37. Sheikh Baqir Karaji
38. Sheikh Salim Asadi
39. Sheikh Muhammad Ridha Shabib
40. Sheikh Ibrahim Nasrawi
41. Sheikh Ahmad Bahauli
42. Sheikh Muhammad Ali Bahauli
43. Sheikh Muhammad Hussein Herzadi

The available information indicates that all the women named in the list attached to your letter are alive and have not been subjected to any harassment or summons by the competent authorities.

According to the available information, the following persons have fled to Iran or other States and their present whereabouts is unknown:

1. Muhammad Ridha Khalkhali
2. Muhammad Ibrahim Shirazi
3. Abdul Hadi Shirazi
4. Muhammad Ali Salari
5. Murtadha Khalkhali
6. Sadiq Khalkhali
7. Ali Bahr al-Ulum
8. Amin Bahr al-Ulum
9. Mustafa Bahr al-Ulum
10. Izz ed-Din Bahr al-Ulum
11. Jaafar Bahr al-Ulum
12. Ahmad Bahr al-Ulum
13. Muhammad Muhsin Bahr al-Ulum
14. Muhammad Salih Abd al-Rasoul Khurasan
15. Sheikh Jabir Fatlawi

Sheikh Muhsin Nasiri was killed by the subversives during the disturbances.

We wish to point out that some of the names contained in the list lack the name of the father and grandfather, as well as the family name, which makes it impossible for the competent authorities to identify and locate them.

Iraq, which is well known for its ethical traditions and humanitarian heritage, will continue its diligent endeavours to apply the human rights instruments and cooperate with the organizations concerned with this matter in a manner conducive to the promotion of human rights in Iraq.

We wish to take this opportunity to express our appreciation for the noble humanitarian task that you are discharging, as well as our willingness to reply to any questions that you might wish to raise. We hope that this reply will be published in full in your report and in the reports of the Commission on Human Rights and the Sub-Commission, in accordance with Economic and Social Council resolution 728 (XXVIII) of 13 July 1959."

55. On 4 November 1991 a further letter was sent by the Special Rapporteur to the Government of Iraq, as follows:

"According to the information received, the Shia Muslim community has been and continues to be subjected to practices inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which jeopardize its religious identity and heritage. The systematic destruction of the majority of mosques, Husseiniyas (religious gathering places for commemorating the martyrdom of Iman Hussein), religious schools, libraries, cemeteries and other historic sites in the holy cities of Najaf and Kerbala has been reported. Numerous cemeteries and graveyards are said to have been desecrated and razed and burials have allegedly been prohibited in many of these facilities. The principal public libraries and private collections, some of which contained rare religious books, manuscripts and other valuable objects, were reportedly looted and many among them burnt. It has been alleged that entire sections of towns and cities with a predominantly Shia population as well as the structures surrounding the holy shrines have been demolished with a view to changing their character. It has also been reported that the perimeter walls of the holy shrines which contain historic examples of ancient Islamic art and crafts are to be destroyed and replaced with iron bars, and that plans exist to build public parks around them. It has further been alleged that the holy shrines have also been looted and that their administration has been taken away from the Shia religious authorities and entrusted to those of the State. It has reportedly been envisaged to convert a number of holy shrines into museums, which would take away the spiritual and social role they play in the life of the Shia community. In addition, the construction and funding of new Shia mosques and meeting places is reportedly subjected to enormous legal and administrative obstacles.

Religious leaders at the mosques are reportedly chosen by the authorities and the content of their speeches is monitored. They are said to be frequently harassed and restricted in their movements within and outside the country. Worshippers are allegedly also subjected to surveillance and intimidation by security officers. It has further been alleged that the movements of the Grand Ayatollah as-Sayyid Abul Qasim Al-Khoei, whose health is said to be deteriorating, remain restricted and that pressure is being exerted on him to appear on television and send envoys to official ceremonies. The members of his family, staff and their relatives who were arrested in March 1991 continue to be detained at undisclosed locations and more than 800 members of the clergy and religious scholars who had been rounded up in Kerbala and Najaf remain in incommunicado detention. Those who are not detained are said to have been prohibited from performing their religious duties and wearing their traditional dress. It has been alleged that there are currently only 15 religious scholars left in Najaf.

Numerous religious schools, colleges and universities have allegedly been destroyed and closed. Many seminars are said to have been banned with the exception of those which have been officially approved. In addition, the official curriculum of the state school system allegedly only teaches the Sunni creed despite the fact that the majority of school children belong to the Shia faith. Information campaigns against the Shia faith accusing it of deviation and heresy have also been reported. Religious affairs units allegedly control the publishing of both contemporary and traditional works of Shia literature,as well as any books and magazines, while religious programmes with a Shia content cannot be broadcast on radio and television. It has been alleged that more than 1,000 Shia religious book titles have been banned by the Ministry of Information.

Traditional Shia rituals concerning the Iman Hussein are said to have been completely prohibited, both in private and in public, as is also the case with other public manifestations and processions associated with Shia religious holidays, the majority of which are allegedly not officially recognized. It has further been reported that the application of the Shia law regarding personal and family matters such as marriage and inheritance is not permitted. Discrimination concerning employment opportunities and promotion of members of the Shia community is said to exist, particularly in the civil service, judiciary and the military. It has also been alleged that the current Nationality Law has resulted in hundreds of thousands of members of the Shia community having their citizenship revoked. It has further been reported that hundreds of thousands of Shia have been deported and their property seized with no compensation.

The following specific cases and incidents have been reported:

Threats against the Grand Ayatollah's son, Sayyid Muhammad Taghi Al-Khoei, are said to have recently appeared in the "Alqadisiya" newspaper, which is published by the Ministry of Defence.

A series of six articles which attacked and ridiculed the Shia faith are reported to have recently appeared in the Ath Thawra newspaper. Derogatory remarks are said to have been made concerning the appearance, religious rites and morals of the Shias and doubts were allegedly expressed concerning the validity of Shia marriages, implying that the children may be illegitimate.

The following allegations of destruction in the Shia holy cities of Iraq in March 1991 in the context of repression which followed the Shia uprising have been received:

The following Shia holy shrines and places of worship have reportedly been destroyed or badly damaged in the city of Najaf

1. The holy shrine of the Imam Ali

   On 23 March 1991, a bulldozer is said to have been brought in through the Toosi door in order to tear a large hole in the air conditioning duct, through which it passed into the inner courtyard. A number of children who reportedly sought refuge in the shrine were hurled into a crowd outside and most are said to have died as a result. It has further been alleged that the tomb of the Imam Ali suffered extensive damage after being hit by artillery shells and that one of the silver panels surrounding the tomb was also destroyed. The golden dome and the main building are also said to have sustained considerable damage, as is the case with the main door and minaret;

2. Forty to fifty persons are said to have been burnt alive by napalm bombing in the holy shrine located in the Huwaish district of Najaf;

3. The Imam Zain Al Abideen shrine dating back to the Islamic 7th century has been damaged;

4. The Safi Safa shrine in Zain Al Abideen Street has also been damaged.

It has also been alleged that the golden dome of the Muslim bin Aqeel holy shrine in the centre of Kufa has been badly damaged by artillery fire.

The following mosques and Husseiniyas in Najaf have reportedly been destroyed

1. The Imam Ali mosque in Amir district
2. The Baquee'a mosque in Medina Street
3. The Morad mosque in Toosi Street
4. The Sami Kirmasha mosque in Imarah district
5. The Imam Sadiq mosque in Medina Street
6. The Kuwait mosque in Medina Street
7. The mosques in the Khan Al Mukhathar areas are said to have been destroyed from both the Khan and the Jamhouriya side
8. The Husseiniya Shoshtaria in Imarah district

The following Shia cemeteries in Najaf have reportedly been destroyed

1. The Wadi al Salam cemetery, which is one of the largest in the world and of significant historical and religious value for the followers of the Shia faith, has been almost completely razed
2. The Sheikh Abdullah Almamqany cemetery containing the tombs of important Shia clergy
3. The Aal Shalal cemetery
4. The Aal Alkhailily cemetery
5. The Sayed Abul Hassan cemetery situated inside a shrine building which contains the tomb of an Ayatollah has been completely burnt
6. The Al Safi cemetery in Zain Al Aabideen Street
7. The Imam Hakim cemetery in Al Rasool Street containing the tomb of Ayatollah Al Hakim
8. The Al Baghdadi cemetery in Al Toosi Street

The following libraries in Najaf have reportedly been looted and their books stolen or burnt

1. The Dar Al Elm public library
2. The Imam Hakim public library in Rasool Street
3. The Dar Al Hikma library in Zain Al Abideen Street
4. The Husseiniya Shoshtaria library in Al Imarah
5. The Al Sadr Al A'dham library had all its books looted
6. The Imam Amir Al Moa'mineen library in Al Hiwaish district had all its books looted
7. The Al Khoei library

The following religious schools in Najaf were reportedly destroyed or burnt

1. The Dar Al Elm school for post-graduate studies directed by the Imam Al Khoei
2. The Al Khalily school in Imarah district
3. The Dar Al Hikma school of the late Imam Al Hakim, in Zain Al Abideen Street
4. The Al Yazdi Great School in Al Hiwaish district
5. The Al Shaikh school in Imarah district
6. The Al Yazdi school located near the holy shrine in the centre of the city
7. The Al Qazwini school located near the holy shrine in the centre of the city has been burnt and demolished
8. The Al Borojordi school

9. the Al Bahbahany school in Zain Al Abideen Street
10. the Al Sadr Al A'dham school has been partly burnt

It has also been alleged that the only religious school in the holy city of Samarra has also been destroyed.

The following holy shrines and places of worship have reportedly been desecrated or destroyed in the city of Kerbala

1. The Imam Hussein Shrine
2. The Imam Abbas Shrine
3. The Maqam Sahib Azman shrine is said to have been completely razed
4. The Maqam Imam Sadiq shrine (all farms around it were reportedly destroyed)
5. The Maqam Tal Al Zainabia
6. The Maqam Hussein Camp at Al Mokhaiam
7. The Maqam Husseins Palm at Qibla Street

The following mosques in Kerbala have reportedly been destroyed

1. Al Hassan Mosque in Al Abbas Street
2. Al Turuk Mosque in the Al Abbasiya area
3. Aoun Mosque in the Bab Baghdad area
4. Ras Al Hussain Mosque in Bab Al Taq
5. Souq Al Kundarchia Mosque at Souq Al Kundarchia
6. Al Attareen Mosque at Souq Al Hussain
7. Sheikh Abdul Karim Mosque at Al Abbasiya
8. Soque Al Alawi Mosque in Al midan Al Qadeem
9. Ami Utrokchi Mosque in Ali Al Akbar Street
10. Al Naqib Mosque in Hay Alnaqib
11. Al Sadiq Mosque in Bab Al Khan
12. Al Hussain Mosque in Hay Ramadhan
13. Al Muttqeen Mosque in Hay Al Hur
14. Al Rasool Mosque in Bab Al Alqamy
15. Al Muntadhar Mosque in Souq Al Naalchia
16. Al Ahmadi Mosque near Al Abbas Shrine
17. Abu Tahin Mosque in Bab Al Salama
18. Al Baloush Mosque in Imam Ali Street
19. Al Abbas Mosque in Al Qibla Street
20. Al Alawi Mosque in Souq Al Ainabia
21. Shti Al Furat Mosque in Bab Baghdad
22. Amir Al Moamineen Mosque in Hay Al Mualimeen
23. Nisf Minara Mosque in Hay Al Hussain
24. Al Amir Mosque in Hay Ramadhan
25. Abu Lahma Mosque in Bab Baghdad
26. Hay Al Thawra Mosque in Hay Al Thawra
27. Ibn Glish Mosque in Bab Baghdad
28. Hay Al Abbas Mosque in Hay Al Abbas
29. Al Wadi Al Qadeem Mosque in Bab Al Khan
30. Al Saadia Mosque in Al Saadia
31. Al Muntadhar Mosque in Bab Baghdad
32. Al Quraan Mosque near the Al Abbas shrine
33. Sheikh Toosi Mosque

The following Husseiniyas in Kerbala were reportedly looted and destroyed

1. Imam Khoei in Sahib Azaman Street
2. Al Karrada at Nahr Al Hussainia
3. Al Karrada Al Sharqia in Tariq Baghdad
4. Al Samawa in Mafraq
5. Tahrania on Imam Ali Square
6. Ahali Nassiri in the city centre
7. Ahali Mowataqia in Al Abbasia
8. Ahali Samawa in Al Abbasia
9. Ahali Shamia in Al Abbasia
10. Ahali Ghamas in Al Abbasia
11. Ahali Annjaf in Al Abbasia
12. Ahali Al Hamza in Al Abbasia
13. Manhrat Alwaqiaa in Al Abbasia
14. Al Hussainy on Adukhnia Road
15. Ahalh Hilla on Twaireej Way
16. Ahali Hamza in Al Abbasia
17. Gharbi in Al Abbasia
18. Bany Hissan in Al Abbasia
19. Sababigh Al Aal in Al Abbasia
20. Ahali Kadhimia in Bab Baghdad
21. Al Barbiat in Bab Attaq
22. Aby Al Khsib in Asaddia
23. Souq Ashyokh in Asaddia
24. Alsamawa in Asaddia
25. Al Anbareen in Al Midan Al Qadeem
26. Sheikh Bashaar in Qiblat Al Hussain Street
27. Al Ashaar in Qiblat Al Hussain Street
28. Bani Amir in Al Abbasia
29. Ahali Al Samawa-Ajamhoor in Al Abbasia
30. Ahali Al Hay in Al Abbasia
31. Ahali Al Kut in Al Abbasia
32. Al Kadhimia in Al Abbasia
33. Qatar in Al Mukhayam
34. Ahali al Hilla in Al Mukhayam
35. Al Karkh in Al Abbasia
36. Al Karkh in Asaddia
37. Al Graiaat in Asaddia
38. Al Qorna in Asaddia
39. Al Thawra in Asaddia
40. Al Amara in Asaddia
41. Al Maimona in Asaddia
42. Al Rumaith in Asaddia
43. Al Nassiria in Asaddia
44. Al Rifaae in Asaddia
45. Al Basra in Asaddia
46. Al Samawa in Hay Al Baladia
47. Al Basra in Hay Al Baladia
48. Shabab Al Ghary in Al Abbasia
49. Ahali Daqooq in Al Midan Al Qadeem
50. Ahali Touze in Al Midan Al Qadeem
51. Soqu al Alawi in Al Midan Al Qadeem

52. Al Bayaa in Bab Baghdad
53. Al Ahsaa in Soqu Al Mokhaiam
54. Al Hinood in Bab Al Salam
55. Ahali Al Qatif in Soqu Al Mokhaiam
56. Ahali Tiseen Kirkuk in Asaddia
57. Karadat Mariam in Asaddia
58. Rabeaa in Hay Al Baladia
59. Al Isfahania in Qiblat Al Hussain Street
60. Al Musayab in Bab Baghdad
61. Al Kuwait in Asaddia
62. Al Bahrania in Al Mukhaiam
63. Al Shakerchy in Al Abbasia
64. Al Mahmoodia in Al Abbasia
65. Al Musayab in Bab Al Salama
66. Al Khudhar in Al Abbasia

The following religious schools in Kerbala were reportedly destroyed

1. Imam Borujordy School in Imam Ali Square
2. Al Dinnia School in Al Mukhai-yam
3. Al Hindia School in Al Mukhai-yam
4. Hassan Khan School near the Imam Hussein Shrine
5. Ibna Fahad Al Hilly School in Al Abbasia
6. Badkooba School in Al Mukhai-yam
7. Al Buq'aa School in al Haramain Street
8. Al Salimia School in Al Mukhai-yam
9. Al Hussainia School near the Al Abbas shrine
10. Al Khateeb School in Al Mukhai-yam

According to the information received, 48 members of the Shia clergy were arrested in the holy city of Samarra.

The following additional members of Shia Muslim clergy and religious scholars of Iraqi and Iranian nationality from among the family, staff and relatives of the Grand Ayatollah have reportedly disappeared after their arrest between 20 and 23 March 1991 within the framework of events which have taken place in Iraq:

1. Sheikh Mohammed Hussein Sharif Kashif Al Ghitta
2. Sheikh Rithwan Habib Kashif Al Ghitta
3. Sayed Faisal Mohammed Al Baghdadi
4. Sheikh Mohammed Hussein Abbas Alturayhee
5. Sheikh Ahmad Duwair Hashoosh Al Bahadeli
6. Sayed Ammar Abood Bahrul Uloom
7. Sayed Mohammed Aboud Bahrul Uloom
8. Sayed Alaa Nasir Mohammed
9. Sayed Mohammed Nasir Mohammed
10. Sayed Abbas Nasir Mohammed
11. Sayed Heider Nasir Mohammed
12. Sayed Kamal Mohammed Sultan Klanter
13. Sayed Mohammed Ali Abdul Samad Dhaher Al Jaberi
14. Heider Abdul Amir Aziz Fakhruldeen
15. Mohammed Abdul Amir Aziz Fakruldeen

16. Sayed Ali Saeed Al Hakim
17. Sayed Ahmad Mohammed Jafar Al Hakim
18. Sayed Hassan Mohammed Jafar Al Hakim
19. Sayed Ali Mohammed Jafar Al Hakim
20. Sayed Hassan Al Qubbanchi
21. Sheikh Mohammed Jafar Mohammed Aal Sadiq
22. Sheikh Abdul Amir Abu Altabooq
23. Sheikh Ahmad Aldujaili
24. Sheikh Hadi Aljusani
25. Sayed Mohammed Taqi Jafar Al Marashi
26. Sayed Ahmad Mohammed Taqi Al Marashi
27. Sayed Mohammed Baqir Mohammed Ibrahim Al Shirazi
28. Sayed Taqi Juma Jawad
29. Sayed Ibrahim Abul Qasim Al Khoei
30. Sayed Mahmoud Abbas Al Melani
31. Sayed Murtadha Jawad Kadhimi Al Khalkhali
33. Sayed Mahdi Murtadha Al Khalkhali
33. Sayed Mohammed Sadiq Mahdi Al Khalkhali
34. Sayed Mohammed Saleh Mahdi Al Khalkhali
35. Sayed Mohammed Hussein Mahdi Al Khalkhali
36. Sheikh Taqi Hassan Abbas Ali Deryab
37. Sheikh Hussein Ali Gulam Redha Firoz Bakht
38. Sheikh Mohammed Hussein Hussein Ali Firoz Bakht
49. Sheikh Mohammed Baqir Hussein Ali Firoz Bakht
40. Sayed Mohammed Ali Mohammed Mohammed Ali Mirsalari
41. Sheikh Zakeria Israel Mohammed Redha Annaseeri
42. Sheikh Mahdi Hassan Al Fadheli
43. Sheikh Redha Ali Akber Redha
44. Sayed Rasul Redha Hussein Hashimi Nasab
45. Sayed Hashim Redha Hussein Hashimi Nasab
46. Sayed Ahmad Hussein Mohammed Al Bahraini
47. Sayed Mahmoud Hussein Mohammed Al Bahraini
48. Sayed Mohammed Baqir Habib Husseinian
59. Sayed Mohammed Kadhum Habib Husseinian
60. Ala Naser Algarawi
61. Abbas Naser Algarawi
62. Hayder Naser Algarawi
63. Mohammad Naser Algarawi
64. Ali Albaaj

The following members of the clergy and religious scholars of Lebanese, Bahraini, Afghan, Pakistani and Indian nationality who worked with the Grand Ayatollah were reportedly also arrested between 20 and 23 March 1991 within the framework of events which have taken place in Iraq:

Lebanese

1. Sheikh Talib Al Khalil
2. Sheikh Hadi Mufeed Al Faqeeh
3. Sheikh Mahdi Mufeed Al Faqeeh
4. Sheikh Sadiq Mohammed Redha Al Faqeeh
5. Sheikh Abdul Rahman Al Faqeeh
6. Sheikh Ali Jafar

Bahraini

1. Sheikh Hassan Ali Kadhum Sharaf
2. Sheikh Fadhel Abbas Ahmad Al Omani
3. Sheikh Mohammed Jawad Abdul Rasool Hussayn
4. Sheikh Jafar Mukhtar
5. Sheikh Ahmad Abdullah Al Moat
6. Sheikh Issa Hassan Abdul Hussayn
7. Sheikh Fadhel As-saadi
8. Sheikh Redha Abdul Karim Shehab

Afghan

1. Sayed Assadullah Sulaiman Mahmoud
2. Sheikh Mohammed Nasir Mehrab Ali Darab Ali
3. Sheikh Mohammed Jafar Mirza Hussayn Gulam Ali
4. Sayed Hashim Al Sayed Ali Kareem Muslim
5. Fadhel Hussayn Mohammed Amir
6. Mihrab Ali Gulam Hussayn
7. Mohammed Moussa Mohammed Ali Gulam Hussayn
8. Mohammed Husayn Mohammed Ali Gulam Hussayn
9. Mohammed Jawad Mohammed Ali Gulam Hussayn

Pakistani

1. Sheikh Baqir Al Sheikh Moussa Ismail
2. Sheikh Mohammed Jawad Baqir Moussa Ismail
3. Sheikh Ali Baqir Moussa Ismail
4. Sheikh Mohammed Baqir Baqir Moussa Ismail
5. Sheikh Jafar Gulam Mohammed Jafar
6. Sheikh Ahmad Gulam Mohammed Jafar
7. Sheikh Mohammed Sharif Gulam Heider Gulam Mohammed
8. Sheikh Sadiq Ali Gulam Heider Gulam Mohammed
9. Sheikh Akhtar Mudhuffar Hussayn Gulamali

Indian

1. Sayed Abbas Hussayn Shah Ahmad
2. Sayed Jawad Al Sayed Abbas Hussayn Shah

It has also been alleged that in June 1991 approximately 70 theology students of Bahraini and Saudi Arabian nationality were arrested in Najaf and are feared to have been executed in the desert about 50 kilometres from the city and buried in a mass grave.

It has further been alleged that Sheikh Al Ahmadi, who was over 80 years of age, was hanged in Najaf and his corpse was subsequently left on the ground. It has been reported that any person who approached the body in order to bury it was shot on the spot.

According to the sources, the son, brothers and nephews of Sayed Mohammad Ridha Al Hakim have been executed. Sayed Murtadha Ali Al Hakim, a clergyman aged 45, was arrested on 25 March 1991 together with his sons Hussein, aged 22 and Ali, aged 25. In addition, Sayed Ala'Al Din Bahrul Uloom, Sayed Ali Al Ala'Din Bahrul Uloom and Sayed Mohammad Safa Musa Bahrul Uloom, aged 60, 27 and 40 respectively, are also said to have been detained.

According to the information received, Ayatollah Sadiq Qazwini, a prominent religious leader and scholar from Kerbala, aged 91, has been imprisoned since April 1980. It has been alleged that he has been subjected to torture despite his age and precarious state of health. It has also been alleged that Ayatollah Qazwini's library of valuable religious books was burned at the time of his arrest and that his home had been looted and destroyed."

Malawi

56. In a communication of 8 October 1991 addressed to the Government of Malawi, the following information was transmitted by the Special Rapporteur:

"According to the information received, Mr. Lenard Jaisi, a refugee from Mozambique belonging to the Jehovah's Witnesses faith who was living in a refugee camp near Lizulu, was murdered in April 1991 by members of the Young Pioneers under the direction of the chairman, Mr. Paulos Kaludzu, and the area chairman for Nanyangu Branch. It has been reported that all the belongings of Mr. Jaisi had been confiscated and that he had been beaten in a very cruel manner. He is said to have been taken to the Sharp Valley police station and subsequently to the Ntcheu police [station] where he died.

It has further been alleged that the authorities encourage youth to persecute members of the Jehovah's Witnesses faith and that the majority of persons belonging to this faith living in the camp near Lizulu fled when they heard what happened to Mr. Jaisi."

Mauritania

57. In a communication of 11 June 1991 addressed to the Government of Mauritania, the following information was transmitted by the Special Rapporteur:

"According to information received, under article 306 of the Penal Code of 1983, any adult Muslim who refuses to pray while recognizing the obligation to do so will be called upon to fulfill his obligation within the time laid down for the performance of the compulsory prayer in question. If he persists in his refusal until the end of that period, he will be punished with the death penalty."

Morocco

58. In a communication of 18 June 1991 addressed to the Government of Morocco, the following information was transmitted by the Special Rapporteur:

"According to information received, Mr. Mohammed Alaoui Suleimani (aged 60), director of a primary school in Marrakesh, has been arrested several times for his religious opinions. According to these reports, in March 1990 he was prosecuted for his links with an unauthorized Islamic association known as 'Justice and Charity' and was condemned by the Court of First Instance at Salé to two years' imprisonment and a fine of 10,000 dirhams. This sentence was confirmed on appeal in 1990. Mr. Suleimani is said to be held at Salé prison."

59. On 16 July 1991, the Government of Morocco sent the following reply to the Special Rapporteur's communication:

"In Morocco, freedom of thought, conscience and religion is guaranteed by the Moroccan Constitution of 1972, which clearly states in article 6 that 'Islam is the religion of the State which shall guarantee the free exercise of religion to all'. Paragraph 3 of the same article indicates how it is to be understood so as to guard against any misinterpretation, stating that the freedom to profess one's religion or beliefs must not be incompatible with the need for protection, security, order and public health, morality or the fundamental freedoms and rights of others.

It thus follows that by virtue of its Constitution, which is its supreme text, Morocco is an Islamic State, and consequently that it is impossible that Mr. Suleimani should have been arrested for his religious opinions, given that he too is a Muslim.

On the other hand, in Morocco, as in all other countries, the establishment of associations and their activities are governed by law (dahir of 15 November 1958 regulating the right of association). The association mentioned by Mr. Suleimani has not been recognized, and hence, its existence not having been authorized, any activity undertaken under its auspices is liable to give rise to legal proceedings, particularly when such activities affect security, law and order, or the fundamental freedoms and rights of others.

The international texts on human rights, and in particular the International Covenant on Civil and Political Rights, contain quite specific provisions on this point. We may cite paragraph 3 of article 18 of the Covenant."

Pakistan

60. In a communication of 15 June 1990 addressed to the Government of Pakistan (E/CN.4/1991/56, para. 80), the following information was transmitted by the Special Rapporteur:

"Further information has been received alleging acts of persecution against Ahmadis. It has again been asserted that Ordinance XX of 1984 prohibits Ahmadis from freely practising their faith, that they are not allowed to meet freely and for the past six years have not been authorized to hold their annual convention. It has also been reported that attacks against the Ahmadi community, including killings and destruction of villages, go unpunished. The Ahmadi daily newspaper has reportedly been banned during the past four years and its editor, publisher and printer have been indicted. According to the allegations received, Ahmadi books and publications have also been banned and confiscated.

Reports on individual cases have been received as follows:

1. Maulana Dost Muhammad Shahid
2. Shabir Ahmad Saqib
3. Manzoor Ahmad
4. Nazir Ahmad
5. Saleem Ahmad
6. Khalid Parvez
7. Muhammad Yusuf
8. Munawar Ahmad
9. Nasir Ahmad

These nine persons were sentenced to two years' imprisonment and a fine for acting against Ordinance XX in April 1990.

10. Mr. Abdul Shakoor of Sarodha was arrested by police on 11 March 1990 for wearing a ring which contained verses of the Holy Quran and taken to the Sargodha jail.

11. Mr. Gul Mohammad of Sargodha was arrested by police on 9 March 1990 for posting a sticker on his motor cycle which read 'There is no one worthy of worship but Allah and Mohammad is His Messenger'. He was sent to Sargodha jail."

61. In another communication dated 20 September 1990 (E/CN.4/1991/56, para. 81), the Special Rapporteur transmitted the following allegations:

"According to the information received, Mr. Irshadulla Tarar, a member of the Ahmadi community, was sentenced to one year of imprisonment and the payment of a PRs 1,000 fine on 29 December 1988 for wearing a *Kalima* badge. An appeal was made but the sentence was reportedly upheld. Mr. Tarar is said to be held at the Gujranwala Central jail.

According to additional information received, on 11 June 1990 the District Magistrate of Jhang prohibited the publication for a period of two months, with immediate effect, of the Ahmadi daily newspaper *Al-Fazal*, Rabwah, under the West Pakistan Maintenance of Public Order Ordinance 1960, on the grounds that it had been acting in a manner prejudicial to the maintenance of public order. It is reported that no specific reason for this action had been cited, nor legal justification provided.

It is also reported that expressions of hostility towards the Ahmadi community have continued to be formulated by mullahs in Chak Sikandar and Khatme Nabuwat. It is further alleged that the 16-year-old son of Sahibzada Abdul Salam had been captured, beaten and accused of proselytism. It is reported that he was imprisoned for three to four days."

62. On 2 January 1991, the Government of Pakistan sent the following reply to the Special Rapporteur's communications:

"1. The Ahmadiyya issue has a century-old history. The problem arose when a group of persons led by Mirza Chulam Ahmad denied the finality of Prophet Muhammad (Peace Be Upon Him) which, after the unity of God, is a fundamental tenet of Islam. Its denial led to violent agitations against the Ahmadiyya community in 1953 and in 1974. The matter was deliberated upon in the legislature and consensus of the nation was arrived in shape of an amendment in the Constitution through a unanimous vote of the National Assembly in 1974. This amendment had two objects viz:

(a) To safeguard the religious sentiments of Muslims (the overwhelming majority of the population);

(b) To protect the Ahmadis from any adverse reaction arising from what had been historically regarded as a repudiation of a fundamental belief of the Muslims.

2. Undoubtedly the controversy between the Ahmadis and Muslims continues to be emotive, but strong statements made by individuals in a religious context are not to be taken as the policy of the Government of Pakistan. The complaints and concerns of the Ahmadiyya community are based evidently on presumption rather than fact. The allegation concerning persecution of Ahmadis is totally baseless.

3. The Ahmadis as a non-Muslim minority have been accorded all the rights and privileges guaranteed to minorities under the Constitution and laws of Pakistan. Some religious practices of the Ahmadis, which are similar to those of the Muslims, arouse resentment among the latter and thus pose a threat to public order and safety. Consequently, the Government had to take certain legislative and administrative measures so as to maintain sectarian peace. The restrictions contained in Ordinance XX are in accordance with the spirit and provisions of international human rights guaranteed under Pakistan's Constitution and laws. The substantive impact of the restraints in Ordinance XX applies only to the public exercise of certain religious practices.

4. The exercise of a right is never absolute. The International Covenant on Civil and Political Rights, while proclaiming the freedom of religion or belief in article 18, stipulates in paragraph 3 of the same article that:

> 'Freedom to manifest one's religion or belief may be subject to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.'

5. This condition is repeated in paragraph 3 of article 1 of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief. In the same spirit, the Constitution of Pakistan provides in article 20 that:

> 'Subject to law, public order and morality, every citizen shall have the right to profess, practice and propagate his religion and to establish, maintain and manage religious institutions.'

6. As regards the arrests/sentences of Ahmadis on the ground of wearing Kalima badges and pasting of verses of Holy Quran, it may be stated that the Ahmadis have been prohibited to use Islamic nomenclature, epithets and titles, etc., under an amendment in the Pakistan Penal Code. The use of these practices by the Ahmadis is a sacrilegious activity from the point of view of the Muslim community which believes in the finality of Prophet Muhammad (PBH) whereas the Ahmadis take their infidel head, Ghulam Ahmad, as an incarnation of Prophethood. It is also worth mentioning that Ahmadis knowingly violate the law of the land so as to get a case registered against them. These cases are later used as a tool to get political asylum abroad and to augment propaganda of alleged persecution of their coreligionalists inside Pakistan.

7. The Ahmadis in Pakistan enjoy full civil rights including the right of franchise. In Pakistan a system of separate elections for each religious community has been adopted to ensure that all minorities are represented in the legislatures.

8. The Ahmadis have full freedom of expression in Pakistan under the law. This is evident from the fact that they have the largest number of publications brought out by any minority in Pakistan. As regards the prohibition of publication of the daily Al-Fazal for two months, this action was taken in the public interest as the newspaper had been acting in a manner prejudicial to the maintenance of public order and the action was essential to avoid sectarian unrest and to ensure public safety.

9. There is no discrimination as regards employment in Pakistan. Article 27 (1) of the Constitution provides that:

> 'No citizen who otherwise qualifies for appointment in the services of Pakistan shall be discriminated against in respect of any appointment on the ground of sect, religion, sex, residence or place of birth.'

10. Some members of the Ahmadi community hold important positions in the services of Pakistan, both civil and military. Not a single Ahmadi has been dismissed from government employment on the ground of his religion.

11. In 1989, some clashes between Ahmadis and Muslims took place at Nankana Sahib and Chak Sikandar (Kharian) resulting in damage to life and property. A report on these incidents is at appendix I. It would be seen from this report that provocation was not one-sided.

12. Islam enjoins the most tolerant treatment of minorities. In his farewell address to his followers, the Prophet of Islam (Peace Be Upon Him) said that on the Day of Judgement he would bear witness on behalf of the minorities. Therefore, for Muslims religious tolerance is not merely a moral obligation but a religious duty. A thousand years in history, when Islam was in political ascendancy, bear testimony to this tolerance and coexistence with minorities. In any event, it would be quite clear to anyone familiar with the true situation in Pakistan, that there exist no plan or campaign, official or otherwise, to persecute the Ahmadi community."

Appendix I

"A. Incident of Nankana Sahib

The incident took place due to the alleged burning of the Holy Quran by an Ahmadi on 10 April 1989 in Chak No. 563/GB, Tehsil Jaranwala, Distt. Faisalabad. Chak No. 563/GB is only 5-6 miles from Nankana Sahib and repercussions were feared there as well, and the local administration spared no effort to pre-empt the situation. The Assistant Commissioner, Nankana Sahib and [a] subdivisional police officer held a meeting of local respectables on 11 April 1989 to discuss the issue. All the participants assured that although a procession [would] be taken out by them on 12 April 1989 to voice their resentment over the burning of the Holy Quran, they [would] however, remain peaceful. But unfortunately, the [participants in the] procession, who were joined by local college students, ran riot and resorted to vandalism. The procession went unruly and damaged a Qadiani place of worship. The warning administered by the Assistant Commissioner, Nankana Sahib was not heeded by the rioters, whereupon tear-gas shells were fired. The mob dispersed into splinter groups and started burning the household articles of about 12-13 Qadianis located in the city. More tear-gas shells were fired to disperse the hooligans. The local administration saved the lives of several Qadianis by retrieving them from the houses. However, 15 houses of Qadianis were partly damaged and nine policemen, including DSP/SDPO, injured. Rioters were chased and 59 of them were arrested. Two cases, FIR No. 123 and 124/89 dated 12 April 1989, under sections 308/452/332/353/39/397/506/436/148/149/PPC, were registered at the Nankana Sahib police station for investigation and trial in the court of law.

B. Incident of Chak Sikandar, Kharian

There existed acute tension between Ahmadis and Muslims in village Chak Sikandar No. 30 about a dispute over a mosque and a daira (public combined place) of the village. The dispute was resolved by the area magistrate and the possession of the mosque was delivered to the Muslims. During May 1989, however, a rift was again created in the village following the visit of an Ahmadi scholar.

On 16 July 1989, one Ghulam Haider was passing in the street along with Ahmad Khan, Fateh Ali, Abdul Rehman and Muhammad Asghar when 28 Ahmadis armed with firearms committed murderous assault on them. The armed Ahmadis resorted to indiscriminate firing as a result of which Ahmad Ali (Muslim) died on the spot, while Muhammad Asghar and Fateh Ali were seriously injured. In addition to this the accused Ahmadis also set on fire the house and belongings of Khalid Hussain, Adalat Khan and Abdul Ghafoor.

In retaliation for the aggressive steps taken by the Ahmadis, the Muslims of the area also gathered and they also resorted to firing at the Ahmadis resulting in death of three Ahmadis, namely Nazir Ahmad, Rafique and Mst. Nabila.

On having learnt about this incident, police rushed to the spot. The SP/DSP and the Assistant Commissioner, Kharian were promptly informed by wireless and they also reached the village immediately. On their intervention, the hostility between the two communities subsided and fire set in the houses was extinguished. The property was saved from further damage. Respectables of both the groups were taken into confidence to start the investigation.

Two cases, FIR No. 333 and 334, dated 16 July 1989 under sections 302/307/148/149/436 PPC, were registered by the Kharian police station. The majority of the accused from both the sect have been arrested to finalize the investigation on merit.

An amount of PRs.2 lacs [200,000] has been sanctioned by the Provincial Government and placed at the disposal of Deputy Commissioner, Gujrat for disbursement to the legal heirs of the four deceased persons killed in the incident. The affected families of Ahmadis consisting of 362 members have since been rehabilitated in the village and they are living peacefully."

63. In a further communication sent on 8 May 1991 addressed to the Government of Pakistan, the following information was transmitted:

"According to the information received, Mr. Muhammad Hanif and his brother, Mr. Muhammad Ahsan, Pakistani citizens of Ahmadi faith residing in Multan, were charged under section 298/B-C of the Penal Code with inviting non-Ahmadis to 'leave the religion of Islam and accept the Quadiani religion', and with giving them Quadiani (Ahmadiyya) literature. Allegedly, religious leaders belonging to the Khatme Nabuwat faction and the local police had acquired Ahmadi literature in order to implicate the two men, who are said to have pleaded not guilty, but were reportedly found guilty under Penal Code provisions 298/B TP and 298/C. Each was sentenced to six years' imprisonment, including six months' solitary confinement, and to a fine of 30,000 rupees. It has also been reported that their imprisonment would be extended by an additional 18 months if they failed to pay the fines.

It has been reported that there were no defence witnesses at the trial and that the prosecution witnesses made conflicting statements containing discrepancies and inconsistencies, a fact which was allegedly also admitted by the court.

According to additional information received, Mr. Naseer Ahmad Alvi (aged 42) was shot by an unknown assailant in Duar District of Nawabshah, Sind province, on 16 November 1990, for being an adherent of the Ahmadi faith.

It has been reported that Mr. Mohammad Sadiq Naseem, a bookbinder reported to be currently detained in the police prison in Chiniot, was arrested on 11 December 1990 in Rabwah and was charged with selling a proscribed work of Ahmadi literature, the Seerat Hazrat Masih Maud, to religious leaders who are opposed to the members of the Ahmadiyya community.

It has further been reported that the police in Rabwah had arrested Mr. Shakoor Bhai Chashma Wala, an optician, at his shop on 3 December 1990 because he is an Ahmadi and charged him with keeping proscribed Ahmadi literature, such as Dafi-ul Balaa, in his shop.

According to additional information received, the Police in Sarghoda, Punjab province, requested followers of the Ahmadi faith from 33 households to wipe off the Kalima Tayyaba inscription from the walls of their houses and the mosque at Chak No. 9, Panyar, within 24 hours. When the members of the Ahmadi community refused to do so, the police reportedly hired a person of the Christian faith to remove the inscriptions."

Philippines

64. In a communication of 11 June 1991 addressed to the Government of the Philippines, the following information was transmitted by the Special Rapporteur:

"The Special Rapporteur has received the following allegations concerning Negros province:

According to the complaints, a certain number of persons belonging to various religious denominations which are involved in social work have allegedly been the victims of violence and persecution on account of their community and church work. Attention is drawn to the following cases:

Killing of Fr. Narciso Pico

According to the information received, Fr. Narciso Pico of the Philippine Independent Church of barangay Antipolo in Pontevedra, Negros Occidental, was killed on 10 January 1991 at 5 a.m. as he was preparing for a meeting of the clergy. Father Pico is said to have been a tireless defender of peoples' rights and a staunch advocate of social justice, expressing special concern for the poor members of his parish.

It has been reported that a right-wing group enjoying strong military support was suspected of the killing. Father Pico is said to have been warned by friends that his life would be in danger unless he renounced his apostolic activity.

Incidents of harassment and intimidation

Fr. Gregorio Patino, a Roman Catholic priest, is reported to have received several letters containing death threats, the most serious of which was dated 23 January 1991.

It has been alleged that stones were thrown on a chapel of the Sisters of Rural Mission which is located near a military base.

The conducting of an unauthorized search of a consumer cooperative, a project of the Basic Christian Community in Mandalagan, Bacolod City, which is administered by the Socio-pastoral Apostolate of the Order of St. Benedict Sisters, has also been reported."

Saudi Arabia

65. In a communication sent on 1 November 1991 addressed to the Government of Saudi Arabia, the following information was transmitted by the Special Rapporteur:

"According to the information received, there are significant restrictions on the freedom of religion, given the fact that Islam is the only official religion to which all citizens must belong. The death penalty is prescribed for apostasy. It has been reported that the death penalty is prescribed for apostasy and that during the holy month of Ramadan, the prohibition against public eating, drinking or smoking during daylight hours is enforced on non-Muslims as well as Muslims. Criticism of Islam is said not to be allowed and nothing embarrassing to the religious leadership can reportedly be published in the press. References to religions other than Islam on radio and television are allegedly removed. Non-Muslim religious activities and the importation of non-Islamic religious material such as Christmas cards and Christmas trees is reportedly also illegal. Foreigners are said to be allowed to practise their religion only in strict privacy and may face imprisonment and expulsion if they proselytize or attempt to arrange large religious gatherings. Persons wearing non-Islamic religious symbols in public may be arrested or publicly harassed by the members of the Committee for the Propagation of Virtue and Prevention of Vice (the *Mutawwi'in*).

It has further been reported that any practice which is not in accordance with the Wahhabi interpretation of Islam is prohibited, as is the case with the use of the Shia call to prayer and other forms of public Shia practice which deviate from the practice of Sunni Islam. Public processions during the holy month of Muharram are prohibited while Shia public celebrations are restricted to specially designated areas within the principal Shia cities. It has been reported that the private construction of Shia mosques is seldom permitted. Members of the Shia Muslim community, estimated to number approximately 500,000, are allegedly subjected to officially sanctioned forms of economic and social discrimination as well as surveillance and restrictions on travel abroad. According to the sources, Saudi Shia Muslim citizens face discrimination in government and industrial employment, especially in jobs with national security implications and it has been reported that the national petroleum company which used to employ large numbers of Saudi Shia Muslims has been instructed to halt their employment and phase out the Shias from positions of responsibility. They are said to also face certain limitations with regard to access to social services. It has also been alleged that over 40 Shia activists are imprisoned in Riyadh on charges of radical Shiite activities. It has been reported that members of the Shia community can adjudicate only non-criminal intra-Shiite disputes within their own legal tradition."

Sudan

66. In a communication sent on 1 November 1991 addressed to the Government of Sudan, the following information was transmitted by the Special Rapporteur:

"According to the information received, article 126 of the new Criminal Code of Sudan which was published in the official gazette on 20 February 1991 stipulates that apostasy from Islam is a crime entailing the death sentence.

It stipulates, inter alia, that 'Any person who committed the offence of apostasy shall be given a respite, the duration of which should be determined by the court. If that person insists on apostasy after that respite, though not newly Muslim, that person shall be punished by death.' It indicates, in addition, 'if that person withdraws his apostasy before execution, then that execution should not be implemented'."

Switzerland

67. In a communication sent on 31 October 1991 addressed to the Government of Switzerland, the following information was transmitted by the Special Rapporteur:

"According to information received, Mr. Frederic Maillard, commercial director of an advertising firm in Fribourg, aged 25, was sent to Fribourg Central Prison on 3 September 1990 because of his decision to refuse on religious grounds to continue doing military service, having been a convinced Christian since the age of 16.

When he was summoned to register for military service for the first time, Mr. Maillard, citing his religious beliefs, submitted a request to the military authorities to do his service in a non-armed unit, a request which was granted. He did his four months' service at a training camp in 1985. The compulsory refresher course scheduled for 1986 was postponed. Mr. Maillard failed to appear for the inspection of weapons and equipment in 1987 and 1988.

On 4 April 1988, Mr. Maillard wrote to the military authorities, informing them of his decision to refuse to serve for conscientious reasons and did not report for the refresher course beginning on 18 April 1988. On 28 August 1989 he explained to the military tribunal of Division 1 at Payerne that his decision arose from his profound religious beliefs, which involved condemnation of any use of violence, making further performance of his military obligations impossible.

According to the sources, the military tribunal is said to have recognized that Mr. Maillard's refusal to serve was based on sincere religious belief and that he was involved in a serious conflict of conscience. Nevertheless, the court sentenced him to three months' imprisonment to be served as a criminal judgement, to the costs of the case, and to dismissal from the army."

Syrian Arab Republic

68. In a communication sent on 8 November 1991 addressed to the Government of the Syrian Arab Republic, the following information was transmitted by the Special Rapporteur:

"According to the information received, members of the Syrian Jewish community residing in Aleppo, Damascus and Kamishli, suffer discrimination because of their religion. It has been alleged that members of the Jewish community are not allowed to emigrate from Syria and are permitted to travel abroad only for short periods in order to visit relatives or undergo medical treatment. It has also been alleged that the persons who wish to travel are obliged to deposit large sums of money and are not allowed to travel with their entire family. This emigration policy has reportedly been conducive to attempts to escape and it has been alleged that the persons who have been caught were imprisoned without charge or trial and were subjected to torture and ill-treatment.

It has been reported that a special branch of the secret police has the exclusive task of monitoring the activities of the Jewish community. Identity cards of the members of the Jewish community are said to be marked in blue and contain the word Mousawi (Jew) while no such indications exist on the identity cards of members of the Syrian Muslim and Christian communities.

According to the sources, members of the Jewish community do not have the right to vote and cannot be candidates in any election. They are also said to be barred from employment by the Government. Their right to inherit or dispose of personal and real estate property is allegedly severely restricted. In addition, the mail they receive from abroad is said to be censored and their telephone calls monitored.

The Special Rapporteur has already referred to the problem of emigration of members of the Syrian Jewish community in his report to the Commission on Human Rights at its forty-sixth session (E/CN.4/1990/46)."

Thailand

69. In a communication sent on 1 November 1991 addressed to the Government of Thailand, the following information was transmitted by the Special Rapporteur:

"Situation of the Hooppha Sawan Religious Land

According to the information received, the religious and lay residents of the Hooppha Sawan Religious Land, reportedly a centre for Buddhist and interreligious activities containing symbolic structures of all the major religions of the world, were threatened and forcibly evicted from this property and all their belongings were confiscated on 29 March 1991 on the orders of the Governor of Ratchaburi province and officials of the Religious Affairs Department. It has been reported that the headquarters of the International Federation of Religions is located at the Hooppha Sawan Religious Land and that both are under the patronage of the Jinnabuddho Memorial Foundation which had been granted permission in June 1973 by the Fine Arts Department to use the Tham Phra Archaeological Site in Pak Tho District, Ratchaburi province, to establish the Hooppha Sawan Meditation Centre on that location.

It has been further reported that the Supreme Court had revoked the licence for the operation of the International Federation of Religions and the Jinnabuddho Memorial Foundation in July 1989 and ordered the cancellation of their registration and cessation of all their operations in December 1981, ruling that all their property become State property. Nevertheless, Dr. Suchart Kosolkitiwong, Chairman of the Jinnabuddho Memorial Foundation and President of the International Federation of Religions, and the Buddhist monks, novices, nuns and laymen were authorized by the Governor of Ratchaburi province and the District Officer of Pak Tho to remain on Hooppha Sawan Religious Land, look after the property and continue with their religious activities while the process of auditing the Foundation's property was taking place.

On 20 March 1991, the authorities of Ratchaburi province ordered the closure of all Jinnabuddho Memorial Foundation property despite the fact that the Governor and the Pak Tho District Officer had not completed the process of auditing, stating that 'All persons living in the area of Hooppha Sawan must leave the location within three days from the date of this notification'. It has further been reported that on 28 March 1991 local policemen used firearms to intimidate and threaten the occupants and tore the robes of a number of monks, subsequently sealing off the area. Such action reportedly resulted in the death of one resident, Mr. Sahas Inthasiri, who had already been ill and who died of shock on 29 March 1991, when reinforced local police units came to evict the occupants. It has also been reported that the persons evicted from the Hooppha Sawan Religious Land who are currently practising religious activity at the Samnak Poo Sawan (the House of Divine Sages) in Bangkok have been threatened with eviction from this location as well.

Situation of the Unification Church

According to the information received, the Crime Suppression Division of the Ministry of the Interior has issued warrants for the arrest of 12 leading members of the Unification Church which is represented by the Unification Culture Foundation in Thailand. Warrants were reportedly also issued for the arrest of the Reverend and Mrs. Moon, should they come to the country, although they have not been accused of any violation of the law. It has been alleged that all Unification Church centres throughout the country have been raided and that documents, books and equipment have been seized indiscriminately. According to the sources, bail has repeatedly been denied for the persons who have already been imprisoned on the grounds that the movement they represent is a 'dangerous threat to the national security', although no formal charges have been brought against them."

70. On 6 December 1991, the Government of Thailand sent the following reply to the Special Rapporteur's communication:

"I. RELIGIOUS FREEDOM AND TOLERANCE

1. One of the most recognized virtues of the Thai people is the high degree of tolerance, appreciation and respect they have for different cultures, traditions and religious beliefs.

2. While a majority of the Thais uphold the Buddhist faith, other religions such as Christianity, Islam, Brahminism and Hinduism, to mention a few, have flourished in Thailand and form part of the religious heritage of Thai society. In fact, all religions upheld in the Kingdom are under royal patronage.

3. Successive constitutions of the Kingdom have guaranteed the right and freedom of people to choose their own religion, to practise their religious beliefs and to congregate and perform religious rites, provided that such activities do not violate the laws of the Kingdom.

II. HOOPPHA SAWAN CASE

4. With regard to the Hooppha Sawan case, information on the situation of the Hooppha Sawan Religious Land received by the Special Rapporteur is inaccurate.

5. The Thai authorities concerned have never resorted to excessive action in vacating the Hooppha Sawan property and in the confiscation of its assets.

6. The Supreme Court ruling of 24 July 1989 authorized the confiscation and designated the province of Ratchaburi to supervise the property and audit the assets of Hooppha Sawan which had belonged the Jinnabuddho Memorial Foundation.

7. Mr. Sahas Inthasiri, who died allegedly because of action taken by the authorities, had been critically ill and did not reside at the property.

8. The Thai authorities concerned decided on 15 April 1991 to transform the Hooppha Sawan property into a religious education centre. For this purpose, a notification was issued to Hooppha Sawan followers to leave the place, after having been treated with leniency since July 1989.

9. Samnak Poo Sawan, operating like a branch of the Hooppha Sawan and belonging to the Jinnabuddho Memorial Foundation, also had its assets confiscated. It is now under the supervision of the Treasury Department, Ministry of Finance of Thailand.

10. The followers of Hooppha Sawan have the right to appeal to court if they feel they have been treated in an excessive manner by the authorities. However, they have not made an appeal.

III. THE CASE OF THE UNIFICATION CHURCH

11. Regarding the case of the Unification Church, the information on the 'Situation of the Unification Church' received by the Special Rapporteur is inaccurate.

12. The licence of the Unification Culture Foundation was revoked on 22 May 1991 at the request of the licensee who was convinced that the Foundation, after its establishment, had engaged in inappropriate activities which were inconsistent with its original objectives, and as a result his own reputation was as stake.

13. Some leaders of the Foundation were arrested on 26 June 1991 on charges of being accomplices to and supporting illegal activities, fraud and making false statement to the authorities. These charges are not related to religious beliefs, and they have full right of appeal to court."

Turkey

71. In a communication sent on 25 April 1991 addressed to the Government of Turkey, the following information was transmitted by the Special Rapporteur:

"According to the information received, Miss Norma Jeanne Cox, a United States citizen, was picked up at her home on 11 December 1990 around 10 a.m. by a plainclothes policeman who identified himself as being from the 4th Division (Foreign Police) and was taken by police car to the 4th Division and subsequently to the *Operasyon Istihbarat*. It has been alleged that she was held for questioning for 36 hours and was deported from Turkey on 12 December 1990 under an administrative order of the Ministry of the Interior for 'disturbing the public' by engaging in 'Christian propaganda'. It has been reported that the police had declared such activity illegal but failed to indicate the law which stipulates this as an offence and did not cite a specific example of Miss Cox's violation of the law, but questioned her about receiving correspondence which, according to the sources, related to a religious subject. It has further been reported that they refused to issue a copy of the order allegedly issued by the Ministry of the Interior for the deportation of Miss Cox or any written accusation against her."

United States of America

72. On 8 November 1991 the Special Rapporteur sent the following information to the Government of the United States of America under annex I:

"According to the information received, a decision rendered by the United States Supreme Court on 17 April 1990 in the case of *Employment Division v. Smith* would amount to a restriction of the right of indigenous people to practise their traditional religions. The case, as reported to the Special Rapporteur, has been summarized as follows:

The Employment Division of Oregon's Department of Human Resources has denied unemployment compensation to two drug rehabilitation counsellors who are both members of the Native American Church because they had taken a hallucinogenic drug, peyote, which is proscribed by Oregon's controlled substance law, and were therefore considered as dismissed from their jobs for misconduct, despite the fact that this had taken place within the framework of a specific Native American religious ceremony.

It has been reported that the peyote cactus has been traditionally used as a sacrament in the carefully circumscribed ritual context of American Indian religious ceremonies and it is said to be vital to the adherents' ability to practise their religion. It is further alleged that the Church's doctrine forbids nonreligious use of peyote and considers its use outside the ritual as sacrilegious. It has reportedly been admitted by scientists and other experts that peyote does not inflict permanent deleterious damage to the Indian and that the spiritual and social support provided by the Native American Church has been effective in combating the effects of alcoholism in the Native American population.

in view of the fact that the active ingredient of peyote is a hallucinogenic substance, many States maintain exemptions for the religious use of peyote which give the indigenous people the 'right to use the plant for ceremonial purposes'. It has further been alleged that the Congress has recognized that certain substances, such as peyote, 'have religious significance because they are sacred, they have power, they heal, they are necessary to the exercise of the rites of religion, they are necessary to the cultural integrity of the tribe, and, therefore, religious survival'."

73. Additional information was sent under annex II as follows:

"According to the sources of information concerning the case of Lyng v. Northwest Indian Cemetery Protective Association previously mentioned in report E/CN.4/1989/44 which the Special Rapporteur submitted to the Commission on Human Rights at its forty-fifth session, additional clarifications ought to be made with regard to the case. At the time of the publication of the aforementioned report, it remained pending before a panel of the United States Court of Appeals for the ninth circuit.

According to the information received, the case at hand does not concern only a six-mile paved road on government land linking the California towns of Gasquet and Orleans but a 1981 proposal of the United States Forest Service to build 200 miles of logging roads through the Blue Creek Unit where the land is located and remove about 733 million board feet of timber from the area over the next 80 years. Blue Creek, a tributary of the Klamath River, is said to be surrounded by 30,000 hectares of land that make up the Blue Creek Unit, half of which is still reportedly covered with virgin Douglas fir forests.

According to the sources, Indians Jimmie James, Sam Jones, Lowana Branter and Christopher Peters together with several environmental organizations took legal action to block this plan since they thought it would destroy the sacredness of the area and hinder the practice of traditional religious ceremonies. In April 1988, the Supreme Court of the United States ruled that the Indian sacred sites in Blue Creek Unit are not legally protected because the Unit as a whole is the property of the Government.

It has been alleged that the Government can have no claim on this land in view of the fact that the Klamath and Hoopa Indian tribes never ceded it to the United States. The treaty concluded on 6 October 1851 was reportedly never ratified by the United States and the Government is said to never have performed its obligations pursuant to the treaty while the two tribes were still removed to small reservations. In addition, these tribes reportedly never agreed to relinquish their right to continue to use and enjoy sacred sites located on these lands. The north-eastern corner of the Blue Creek Unit is reportedly considered to be sacred land by the Yurok, Karok and Tolowa Indian tribes who use several mountain peaks, including Chimney Rock and Doctor Rock, as places of worship. The participants in the tribes' three most important annual ceremonies, such as the White Deerskin Dance, must pray on these mountain peaks in order to prepare for their religious duties. According to the sources, the Yurok, Karok and Tolowa Indian tribes did not participate in nor consent to the 1851 treaty and never gave up their right to use the land."

74. The following information was transmitted under annex III:

"The Special Rapporteur was not able to establish beyond doubt whether Mr. LaRouche's association can be considered as falling under the terms of the Declaration on the Eliminaton of All Forms of Intolerance and of Discrimination Based on Religion or Belief. He nevertheless felt obliged to ask the Government of the United States of America to provide him with comments and observations thereon, since the allegations have been submitted to him with specific reference to the Declaration.

According to the information received, United States citizen Mr. Lyndon H. LaRouche is reported to have been subjected to harassment, investigation and prosecution solely because of his beliefs. Mr. LaRouche, who is said to be the founder and leader of a metaphysical association whose beliefs are reportedly centered on the right of all peoples to development and economic justice, was indicted on 14 October 1988 and charged with 'conspiracy to commit fraud', 'mail fraud' and 'conspiracy to defraud the Internal Revenue Service'. On 27 January 1989 he was reportedly sentenced to five years' imprisonment on each charge, amounting to a sentence of 15 years in prison, by the United States District Court for the Eastern District of Virginia, Alexandria Division. Mr. LaRouche's trial is said to have been unfair and conducted in disregard for guarantees necessary for the defence. Exclusion of evidence has also been reported in this connection as well as the passing of an excessive sentence for crimes which are usually said to be regarded as minor civil or administrative infractions. On 22 January 1990 Mr. LaRouche's appeal of sentence was denied by the Fourth Circuit Court of Appeals which upheld the ruling of the District Court of Alexandria. It has been alleged that about 50 persons have so far been indicted because of their links with Mr. LaRouche's association and it has been reported that they, too, have had unfair trials.

According to the sources, Mr. LaRouche's beliefs have reportedly also resulted in the seizure and closing down of five publishing companies whose publications had disseminated the ideas of his association."

Zaire

75. In a communication sent on 8 October 1991 addressed to the Government of Zaire, the following information was transmitted by the Special Rapporteur:

"According to information received, the Association of Jehovah's Witnesses has been dissolved in Zaire by Ordinance No. 86-086 of 12 March 1986, which came into force on the date of signature, thus abrogating Ordinance No. 80-124 of 30 April 1980, which granted the same Association legal personality.

According to the sources, the Jehovah's Witnesses have suffered both material and moral injury and are persecuted in all parts of the country. Their moveable and real property is confiscated, and members have been arrested, illegally detained and often tortured. Some of them have lost their jobs and children have been sent home from school. The value of the material damage suffered is said to amount to Z 70 billion."

III. CONSIDERATION OF GENERAL INFORMATION RELATING TO THE IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF

A. Replies to a questionnaire

76. In the implementation of his mandate and in order to appraise better the constitutional and legal guarantees of freedom of thought, conscience, religion and belief, the Special Rapporteur has been collecting information transmitted to him by Governments, non-governmental organizations and other religious and lay sources, with a view to acquainting himself with the measures taken by States to combat intolerance, and incidents and governmental actions which might be inconsistent with the provisions of the Declaration. The Special Rapporteur once again wishes to express his gratitude for the thorough and detailed explanations as well as the voluminous legal documentation he has received in this regard.

77. When examining the information provided by Governments concerning legislation, the complaints regarding religious discrimination and intolerance received over the years and the answers of Governments concerning these allegations, the Special Rapporteur felt that it would be useful to examine certain specific questions within the purview of his mandate on the basis of a comparative study of relevant national legislation. In view of the fact that his mandate is not to evaluate national legislation with regard to religious intolerance, as indicated in his report to the Commission on Human Rights at its forty-seventh session (E/CN.4/1991/56), he did so on the basis of information provided by Governments concerning such legislation, but also taking into account concrete complaints regarding religious discrimination and intolerance he had received over the years. It may be recalled that the Special Rapporteur formulated a questionnaire encompassing 11 general questions which he considered particularly relevant in the light of the experience he has gained so far. The questionnaire was sent out to all Governments on 25 July 1990.

78. Most countries provided answers following the structure of the questionnaire. Their replies are reproduced in their totality and have only been summarized as far as purely historical references are concerned. A number of countries did not answer question by question but provided answers of a general nature, excerpts from legislation, or referred to earlier replies. Some countries gave interim replies. To the extent that material could be extracted from these answers, it has been reproduced. In other cases, a descriptive summary has been provided.

79. In view of the fact that replies were still arriving when his report to the forty-seventh session of the Commission on Human Rights was being finalized, the Special Rapporteur decided to postpone his analysis of the material received to his report to the Commission on Human Rights at its forty-eighth session. All replies received by 20 December 1990 are reflected in chapter II, part A of his report to the Commission at its forty-seventh session (document E/CN.4/1991/56); those received by 30 November 1991 are reflected in chapter II of the present report. In order to reflect all the replies received on an equal basis, the Special Rapporteur has retained the presentation appearing in his last report. The present report should thus be considered together with document E/CN.4/1991/56.

80. Since the publication of document E/CN.4/1991/56, replies to the questionnaire of 25 July 1990 were received from the following Governments by 30 November 1991: Australia, Belize, Bolivia, Botswana, Burkina Faso, Canada, Cyprus, Egypt, Guinea, Haiti, Iceland, Ireland, Islamic Republic of Iran, Israel, Luxembourg, Panama, Portugal, Rwanda, Sudan, Syrian Arab Republic, Trinidad and Tobago, Turkey, Ukrainian Socialist Republic, United States of America and Zimbabwe.

81. The following paragraphs reflect the questions sent out to the Governments and the answers provided by them:

82. (a) In national legislation or practice, is a distinction made between religion, religious sects and religious associations? If so, what criteria are used for determining which ones are legal or illegal?

Australia

"There is no distinction made in Australian national law and practice between religions, religious sects or religious associations, and none are illegal. In fact section 116 of the Australian Constitution prohibits the making of laws which would prevent the free exercise of any religion. Section 116 is as follows:

> 116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

Although this section only applies to the Commonwealth of Australia and not to the six States which comprise that Commonwealth, it is a fact that there are no State laws or practices which make distinctions between religions, religious sects or religious associations or ban them as illegal."

Belize

"At present there is no single piece of legislation that deals exclusively with ... religious tolerance, however there are adequate provisions in our Constitution to guarantee the rights of individuals in regard to religious beliefs.

In the Preamble of the Constitution the following is stated:

Whereas the people of Belize:

(a) Affirm that the nation of Belize shall be founded upon principles which acknowledge the supremacy of God, faith in human rights and fundamental freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all memebers of the human family are endowed by the Creator.

(d) Recognize that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and upon the rule of law.

Sections 4 and 11 (copies attached) seem adequate to cover questions at (a), (b), (c), (d), and (g)."

Bolivia

No distinction is made in Bolivian legislation or practice between religion, religious sects and religious associations. Churches and religious associations and institutions are considered legal if they have legal personality, which entitles them to conduct their activities anywhere in the national territory.

Botswana

"There is no distinction made in national legislation or practice between religion, religious sects or associations."

Burkina Faso

In its reply, the Government of Burkina Faso did not refer specifically to this question, but stated the following:

"Burkina Faso has just adopted, on 2 June 1991, a Constitution guaranteeing firstly a republican and secular form of State and secondly the exercise of fundamental freedoms, including freedom of belief and religion.

This means that in our country no distinction is made in any legislation or any administrative or judicial practice between religions and religious sects with regard to religious practice.

In Burkina Faso all religions are free to carry on their activities and do not need any special authorisation for the purpose.

However, when members or leaders of a religious denomination decide to set up an association of a religious nature, they have to comply with the legislative provisions in force."

Canada

"Both the Canadian Charter of Rights and Freedoms and human rights legislation refer to religion in general, with no distinction made between religion, religious sects and religious associations. Furthermore, both the Charter and human rights legislation have been interpreted to apply to minority as well as to majority religions. Indeed, it has been emphasized by the Supreme Court of Canada that the primary purpose of section 2 (a) of the Charter, which guarantees freedom of religion, is to safeguard religious minorities from the threat of the 'tyranny of the majority' (R. v. Big M Drug Mart Ltd., (1985) 1 S.C.R. 295); and of section 15, which guarantees equality rights, to protect disadvantaged groups (Law Society of British Colombia v. Andrews, (1989) 1 S.C.R. 143).

However, it should be noted that religious organizations are not rendered immune from the requirements of criminal or other relevant legislation by their religious status. For example, in Church of Scientology v. the Queen, (1987) 31 C.C.C. (3d) 449, the Ontario Court of Appeal held that the Church of Scientology was not protected from the operation of a search warrant relating to an alleged offence of fraud on its part by the guarantee of freedom of religion in the Charter."

Cyprus

In its general reply, the Government of Cyprus referred to this question as follows:

"All religions whose doctrines or rites are not secret are free.

All religions are equal before the law. Without prejudice to the competence of the Communal Chambers under this Constitution, no legislative, executive or administrative act of the Republic shall discriminate against any religious institution or religion.

Every person is free and has the right to profess his faith and to manifest his religion or belief, in worship, teaching, practice or observance, either individually or collectively, in private or in public, and to change his religion or belief.

The use of physical or moral compulsion for the purpose of making a person change or preventing him from changing his religion is prohibited.

Freedom to manifest one's religion or belief shall be subject only to such limitations as are prescribed by law and are necessary in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person.

Until a person attains the age of sixteen the decision as to the religion to be professed by him shall be taken by the person having the lawful guardianship of such person."

Guinea

"The distinction between religion, religious sect and religious association: there is no legislative text giving a definition of religion and religious sect; however, on the basis of article 10 of the Fundamental Law, it can be said that a religious association is a group of citizens whose purpose is to engage collectively in religious activity.

As far as religion is concerned, the official meaning of the term is that it is a set of doctrines and practices concerned with the relations between man and God.

A religious sect, as distinguished from a religious association, is a group of individuals initiated into a certain religious practice and usually bound to each other by a secret act of solidarity.

It does not encourage the existence of religious sects, which are often a source of intolerance, fanaticism and practices prejudicial to the preservation of man's life and physical integrity."

Haiti

"Haitian legislation makes no distinction between religions, religious sects and religious associations. No such distinctions exist in practice. All religious denominations are equal."

Iceland

"No distinction is made between these concepts."

Iran (Islamic Republic of)

"The basis of state in the Islamic Republic of Iran is Islam and Twelver Ja'fari school.

Other Islamic schools, including the Hanafi, Shafi'i, Maliki, Hanbali and Zeydi are accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. These schools enjoy official status in matters pertaining to religious education, affairs of personal status (marriage, divorce, inheritance and wills) and related litigation in courts of law.

Religious minorities in the Islamic Republic of Iran are Zoroastrians, Jews and Christians who are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education."

Ireland

"No."

Israel

"1. The State of Israel is committed to the equal application of the law to all its inhabitants, without distinction between religion, religious sect or religious association. All persons in Israel have the right to freedom of thought, conscience and religion. This right includes the freedom to have a religion of choice, and the freedom, individually or communally, to practise that religion or belief in worship, observance, practice and teaching.

2. The maintenance of the dignity of man is axiomatic in the life of the State. This important principle was expressed in the Proclamation of Independence of the State of Israel on the day of its establishment on 14 May 1948:

> 'The State of Israel will foster the development of the country for the benefit of all its inhabitants, it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants, irrespective of religion, race or sex; it will safeguard the holy places of all religions and be faithful to the Principles of the Charter of the United Nations.'

3. While this Declaration does not constitute positive law, it has nevertheless been accorded a special status, which in the course of the years has left considerable imprint upon the Israeli legislature and has been applied by the Israeli courts as an important guide for the interpretation of laws of the State.

4. As a result of a variety of reasons, historical and others, Israel like Great Britain which ruled Israel from 1918-1948, has as yet no comprehensive written constitution. The Knesset has passed a series of 'Basic Laws' which form the backbone of Israeli democracy and which will form the future constitution of the State of Israel. The enactment of the Basic Laws as well as the promulgation of the other legislative and administrative measures taken by the State act together to prohibit, inter alia, discrimination on the grounds of religion or belief.

5. The Supreme Court of Israel examines the validity of legislation in light of the basic principles of democracy and exercises judicial review over all lower tribunals as well as religious courts. The Supreme Court also sits as a High Court of Justice and as such exercises review over all administrative acts and has jurisdiction over questions of human rights. The power of the Supreme Court sitting as High Court of Justice is now embodied in Section 15 (g) of the Basic Law: The Judiciary, 1984 (Laws of the State of Israel (hereinafter 'L.S.I.') vol. 38, p. 101):

> '15 (g) The Supreme Court shall also sit as a High Court of Justice; sitting as such it shall deal with matters which it deems necessary to grant relief in the interests of justice and which are not within the jurisdiction of any other court of tribunal.'

6. The Supreme Court sitting as the High Court of Justice stated the following in American European Beth El Mission v. Minister of Social Welfare (21 P.D. II 325, 333 (1967)):

> 'The rights and freedoms of the individual have always been an essential part of Israeli common law, and therefore, inter alia, standards for the interpretation of laws by the Israeli courts ... A regulation which conflicts with the concepts of any of the human rights recognized as such by the law of nations will be regarded by this court as unreasonable and declared null and void by it.
>
> 'The fundamental doctrine of human rights as laid down by the Universal Declaration of Human Rights, 1948 and the Convention on Civil and Political Rights, 1966 are today the patrimony of all enlightened peoples, whether or not they are members of the United Nations and whether or not they have already ratified the Convention of 1966.'

7. The State of Israel is now in the process of formally ratifying the Convention on Civil and Political Rights, 1966 and the Convention on Social and Economic Rights, 1966. Article 18 of the Convention on Civil and Political Rights states that freedom of thought, conscience and religion is a fundamental human right.

8. The Government of Israel recognizes and supports the dynamic pluralism which results from the mix of religions in the State. The goal, therefore, is not to achieve homogeneity, but rather to provide by law the possibility for each person to exercise and enjoy the freedom to observe his own religion.

(published in the 1989 Statistical Abstract)

	1985	1988	% of total in 1988	% increase 1985-1988
Total	5 015 200	5 294 500	100.00	
Jews	4 266 200	4 476 800	84.56	4.94
Muslims	577 600	634 600	11.99	9.87
Christians	99 400	105 000	1.98	5.63
Druze and others	72 000	78 000	1.47	8.33

9. In order to ensure the rights of freedom of religion of such a diverse population Israel has preserved the system of religious communities or Millets of the Turkish and British Administrations. (The Turkish Administration recognized non-Muslim communities which were organized into Millets under the leadership of religious dignitaries who were responsible for their communities). Therefore, the religious laws of members of a recognized community govern them in matters of Personal Status, which are defined in Article 51 of the Palestine Order in Council 1922 as amended (L.S.I. vol. 11, p. 9) amended as 'such regarding marriage or divorce, alimony, maintenance, guardianship, legitimation of minors, inhibition from dealing with property of persons who are legally incompetent, successions, etc, and legacies and the administration of the property of absent persons.!

10. In addition to the Muslim community the following religious communities have been recognized by the State of Israel:

(a) The Eastern (Orthodox) Church;
(b) The Latin (Catholic) Church;
(c) The Gregorian (Armenian) Church;
(d) The American (Catholic) Church;
(e) The Chaldean (Uniate) Church;
(f) The Chaldean (Uniate) Church;
(g) The Jews;
(h) The Greek (Catholic) Melbite Church;

(i) The Maronite Church;
(j) The Syrian Orthodox Church;
(k) The Druze;
(l) The Evangelical Episcopal Church;
(m) The Bahai.

11. According to the Rabbinical Courts Jurisdiction (Marriage and Divorce) Law 5713-1953 (L.S.I. vol. 7, p. 139) matters of marriage and divorce of Jews in Israel who are nationals or residents of the State shall be under the exclusive jurisdiction of the Court. In matters of personal status or of succession, in which a Court has no exclusive jurisdiction, a Rabbinical Court shall have jurisdiction over Jews after all the parties concerned have expressed their consent.

12. According to the Druze Religious Courts Law 5723-1962 (L.S.I. vol. 17, p. 17) matters of marriage and divorce of Druze in Israel who are citizens or residents of the State shall be under the exclusive jurisdiction of the Court. There shall also be under its exclusive jurisdiction matters relating to the creation of internal management of a religious trust before a Court under Druze religious law, or a trust established before the coming into force of this law, in accordance with Druze custom, otherwise than before a religious or Civil Court.

In matters of personal status of Druze or of succession, in which a Court has no exclusive jurisdiction, the Druze religious Court shall have jurisdiction over the Druze, after the parties concerned have expressed their consent.

13. The Government of Israel decided to lend support to the Muslim community by concentrating its activities in three spheres: (a) the networks of 'Sharia' (Muslim religious courts) jurisdiction by attempting to accelerate the qualifying of reliable judges; (b) organizing religious facilities for the Muslim population, including guarding holy places, maintaining mosques and cemeteries, organizing the administration of religious functionaries, and establishing education, welfare and health projects; (c) setting up of Muslim committees for religious matters in the towns. The independence and tenure of Muslim religious judges (*Qadis*) have been established under the *Qadis* Act 5721-1961 (L.S.I. vol. 15, p. 123) on the lines laid down for rabbinical judges. The *Qadis* are appointed by the President of the State upon nomination of a committee composed of the Minister of Religious Affairs and one other member of the Cabinet, two *Qadis* to be elected by all *Qadis* in office, three members of Parliament of whom two at least must be Muslims, to be chosen by Parliament, and two advocates, of whom one at least must be a Muslim, to be chosen by the Chamber of Advocates.

A *Qadi* is appointed for life, subject to compulsory retirement at the age of seventy and subject to the right of the President of State to remove him for misconduct, when a disciplinary court composed of the senior *Qadi* in office, an advocate appointed by the Chamber of Advocates, and a third member appointed by the Minister of Religious Affairs, have found him guilty of such misconduct and recommended his removal from office.

A Qadi is not, in matters pertaining to the performance of his judicial duties, subject to any directions of control, but solely to the law and to his conscience.

Matters which are within the scope of the religious jurisdiction of the Muslim community are dealt with by four regional Sharia courts. Above them, an appeal court has been appointed as a court of second instance - a Court of Appeal.

The authority of the sole jurisdiction of the Sharia courts extends over all the Muslims in Israel, whether they are citizens of the State or foreign subjects, provided that in accordance with their national law they are subject to the jurisdiction of Muslim Courts. They deliberate upon personal matters in accordance with Muslim law as consolidated in Ottoman Law of Family Rights of 1917 with such modifications as derive from Israeli legislation.

14. The Christian Communities enjoy a wider religious judicial autonomy than the Jewish, Muslim and Druze Communities. As for example, the nomination of the judges is not established under Israeli Law, but it depends totally on the choice of the appropriate Churches and their Centers.

15. All of the religious courts are equally protected by law, without distinction. The Religious Courts (Prevention of Disturbances) Law 5725-1965 (L.S.I. vol. 19, p. 114) provides that where any person, within sight of a religous court or near the place of its proceedings, disturbs that proceedings, the court may order his removal or compel him by a fine to behave properly. The imposition of a fine shall not prevent his being criminally prosecuted in respect of the act for which he was fined.

'Court' is defined as a Rabbinical Court, a Sharia Court, a court of a Christian Community and a Druze religious court, sitting by virtue of powers conferred by law.

16. There are no provisions in Israeli law which prevent a non-recognized religious community or a member of that community from worshipping or from carrying out religious functions. On the contrary, the High Court of Justice has affirmed the basic rights of freedom of religion and held that permission to worship is not required by anyone since the right to freedom of conscience, belief, religion and worship is absolutely guaranteed in Israel. However, as with any other right, it cannot be exercised in such a way which would interfere with the rights of others, or which would threaten the public safety (H.C.J. 292/93 38 P.D. (II) 449)."

Luxembourg

"Only four faiths are recognized in Luxembourg law: the Catholic faith, the Protestant faith, the Jewish faith and the Greek Orthodox faith."

Panama

"No distinction is made in the national legislation or practice between religions, religious sects and religious associations, in view of article 35 of the Political Constitution, which reads:

> "Art. 35:
>
> The profession of all religions is free, as are all kinds of worship, without any limitation other than respect for Christian morality and law and order."

and in articles 64 and 66 of the Civil Code, which read:

> "Art. 64:
>
> The following have legal personality:
>
> 1. ...
>
> 2. Churches and religious congregations, communities or associations."
>
> "Art. 66:
>
> Churches and religious communities, congregations or associations shall be governed by their respective canons, constitutions or rules, but in order to have legal personality they need to be recognized by the Executive, which will make a recommendation to that effect without any restriction other than respect for Christian morality and law and order provided that they are not opposed in their principles, precepts or practices to the Constitution or laws of the Republic."

Portugal

"According to the basic law on religious freedom promulgated in 1971, the State recognizes and guarantees religious freedom of the individual and gives adequate legal protection to religious denominations.

Religious denominations are thus entitled to equal treatment, except as regards the differences made necessary by their different representativity.

This same principle is established in the Portuguese Constitution. Article 41 states that churches and other religious communities are separate from the State and are free to organize and carry on their ceremonies and their worship as they choose (no. 4).

There is also a ban on any interference by the State, except in so far as through legislation it regulates freedom of organization and private association and the right of assembly and demonstration or other rights relating to freedom of worship.

Application has to be made to the Government, represented by the Ministry of Justice, for recognition of religious denominations.

For this purpose it is necessary to submit a request signed by 500 duly identified members of the congregation who are domiciled in Portugal, accompanied by documents proving the existence of the denomination for a number of years on Portuguese territory, the principles of its doctrine, its name, a description of its acts of worship, the rules governing discipline and the hierarchy in the organization, and the identity of its leaders.

Recognition can only be refused for two kinds of reasons:

Reasons of form - the organization does not submit the necessary documents or the documents turn out to be false;

Reasons of substance - the doctrine, the rules or the worship of the denomination are incompatible with safety of life, physical integrity or personal dignity, morality, fundamental constitutional principles or the interests of national sovereignty.

Recognition can be withdrawn if the organization violates one of these principles or if its activity turns out to be concerned with matters other than those that are the strict purpose of religious denominations."

Rwanda

"No distinction is made in our legislation between religions, religious sects and religious associations.

Our Constitution, in the part dealing with public freedoms, does not make any distinction between these three terms, as only the terms 'religion' and 'faith' are used. In Kinyarwanda they are translated by one and the same word, '*idini*'.

Article 16 of the Constitution

All citizens shall be equal before the law, without any discrimination, in particular on grounds of race, colour, origin, ethnic group, clan, sex, opinion, religion or social position.

Article 18 of the Constitution

Freedom of faith and of the public practice of one's faith, freedom of conscience and freedom to express one's opinions on any matter are guaranteed, except as regards the punishment of offences committed in the course of their exercise.

These same terms are the only ones used throughout the criminal code in the provisions dealing with infringements of the freedom of faith, aversion, hatred and discrimination based on an individual's belonging or not belonging to a particular religion.

As far as religious associations are concerned, they are merely associations of individuals practising the same religion, which in law are known as non-profit-making associations, under the terms of the edict of 25 April 1962 concerning non-profit-making associations.

No such distinction is made in the country's administration practice either."

Sudan

"No distinction is made in Sudanese legislation or practice between religions and religious sects and associations. All of them, whatever their nationality, have the rights and duties conferred by religion and the legislation deriving from it. Thus, under the Criminal Code:

> The criminal laws derived from the Islamic shariah do not apply to non-Muslims in places such as the southern Sudan where they represent a majority of the population.
>
> As regards personal status, the laws applied to all sects are those deriving from their religion or customs. Civil courts deal with cases relating to the personal status of non-Muslims.
>
> All sects enjoy freedom of worship. They are entitled to the holidays fixed by their culture. Thus Friday is a day of rest for Muslims, whereas Christians get Sunday and other holidays.

Belonging to this or that religion does not prevent anyone from having access to public employment or from enlisting. In actual fact, Christians account for a considerable proportion of the government troops fighting in the south of the country.

There are at present many Christians living in areas with a Muslim majority. Because of the war, Christians and other inhabitants of the south have emigrated by the thousands to the north, where they live among Muslims. They have even established themselves beyond Khartoum, along the border with Egypt, which completely refutes the allegation that the war in the south is a war of religion between Christians and Muslims."

Syrian Arab Republic

In its general reply to the questionnaire, the Government of Syria stated that "the Syrian Constitution contains the following guarantees: ... Freedom of belief shall be safeguarded. The State shall respect all religions and shall guarantee freedom of all forms of religious observance. Every citizen has the right to express his opinion publicly and freely, either orally, in writing or through any other form of expression, and to participate in the task of monitoring and constructive criticism. Article 35, paragraph 2: The State shall guarantee freedom to engage in all religious observances in a manner consistent with public order."

Trinidad and Tobago

"No distinction appears to be made. A religious organization must be registered by the Board of Inland Revenue in order to obtain charitable status."

Turkey

"No distinction exists."

Ukrainian Soviet Socialist Republic

"National legislation and practice in the Ukrainian SSR make a distinction between the concepts of religion, religious organizations and religious communities, and this is reflected in the recently adopted Act of the Ukrainian SSR on freedom of conscience and religious organizations.

The Act defines religion in the context of the broader concept of freedom of conscience. In accordance with article 3, every citizen of the Ukrainian SSR has the right to freedom of conscience. This right includes the freedom to have, adopt and change religion or belief at will and the freedom to profess any religion or none, and engage in religious worship individually or together with others.

Religious organizations in the Ukrainian SSR are religious communities, authorities and centres, monasteries, religious fraternities, missionary societies, seminaries, and associations of religious organizations. Religious associations are represented by their own centres or authorities.

Religious organizations in the Ukrainian SSR are set up in order to meet citizens' religious need for the profession and propagation of faith. They function according to their own hierarchical and institutional structure and elect, appoint and change their personnel according to their own constitutions or regulations.

A religious community is a local religious association of believers of one religion, denomination, sect or doctrine, who are over 18 years of age and have willingly come together in order jointly to manifest their religion or belief, worship, and perform religious rites and ceremonies.

The only legal criterion governing the activities of religious organizations and associations in the Ukrainian SSR is their conformity with the above-mentioned Act on freedom of conscience and religious organizations."

United States of America

In its reply, the Government of the United States of America did not specifically refer to this question, but it said the following:

"In the United States, freedom of religion is guaranteed by the first amendment to the U.S. Constitution. The first amendment states that 'congress shall make no law respecting an establishment of a religion or prohibiting the free exercise thereof ...' The first part of this provision has come to be known as the 'establishment clause'; the second as the 'free exercise clause'. In terms of protecting against religious intolerance, the free exercise clause is considerably more significant. The first amendment as a whole is applicable to the Governments of each of the States by virtue of the fourteenth amendment to the U.S. Constitution. Thus, no distinction is or properly can be made between religion, religious sects and religious associations.

When a law or other governmental action is challenged as a violation of the establishment clause, U.S. courts will examine it under a three-part test. First, the law or other governmental action must have a secular purpose. Second, it must have a primarily secular effect. Third, it must not involve the Government in an excessive entanglement with religion."

Zimbabwe

"The answer is 'no'. Our Constitution has a Declaration of Rights or Bill of Rights which is justifiable. One can appeal to the Supreme Court if any of these rights are violated. Section 19 (one of those fundamental rights) of our Constitution provides for the protection of the Freedom of Conscience."

83. (b) Does your country afford equal protection both to believers of all faiths and to non-believers (free thinkers, agnostics and atheists)? If not, in what way is the treatment different?

Australia

"Section 116 of the Australian Constitution has the effect of affording protection to believers of all faiths. In this context it should be noted that the High Court of Australia has given a broad interpretation to the concept of religion (Church of the New Faith v. Commissioner for Payroll Tax (1983) 49 ALR 65). This broad interpretation would not cover a lack of any religious belief (i.e. atheists) but it should be noted that there are no Australian laws or practices which draw adverse distinctions between believers and non-believers. On the contrary, there are specific efforts made to accommodate both believers and non-believers, such as the provision in public life or the courts for taking either a religious oath or for non-believers, an affirmation (e.g. in relation to the provision of evidence in court)."

Bolivia

"In this country all persons enjoy equal protection and guarantees without any distinction. Article 6 of the Political Constitution of the State expressly states: 'Every human being has legal personality and capacity, in accordance with the laws. He enjoys the rights, freedoms and guarantees recognized by this Constitution, without distinction as to race, sex, language, religion, political or other opinion, origin, economic or social condition, or any other. The dignity and freedom of the person are inviolable. To respect them and protect them is a primary duty of the State'."

Botswana

"There is equal protection to all believers and non-believers."

Burkina Faso

In its reply, the Government indicated that "Any citizen is free to practise the religion of his choice or not to practise it, in accordance with article 7 of the Constitution, which guarantees 'freedom of belief, non-belief and religious opinion'. Similarly, no distinction is made between citizens and aliens in matters of religion."

Canada

"The Supreme Court of Canada has stated that at the very least freedom of religion in the Charter should mean that government may not coerce individuals to affirm a specific religious belief or manifest a specific religious practice (R. v. Big M Drug Mart Ltd., (1985) 1 S.C.R. 295). Thus free thinkers, agnostics and atheists would be protected by the Charter from any coercion in this regard.

Furthermore, section 2(a) of the Canadian Charter of Rights and Freedoms guarantees freedom of religion and conscience. For the most part Charter cases based on section 2(a) have involved claims relating to religion *in stricto sensu* rather than more generally to matters of conscience. However, in R. v. Morgentaler et al., (1988) 1 S.C.R. 30 [it was] indicated in a concurring judgement that section 2(a) should be interpreted broadly to extend to conscientiously held beliefs, whether grounded in religion or in a secular morality."

Cyprus

In its reply, the Government of Cyprus did not refer specifically to this question, but stated the following:

"According to the Constitution of Cyprus, which is the supreme law in the Republic, all religions are free and equal before the law. Freedom of religion and conscience also includes convictions such as agnosticism, free thinking, pacifism, atheism and rationalism.

Article 18 of the Constitution provides that 'every person has the right to freedom of thought, conscience and religion'.

Moreover, Article 28 provides that:

1. All persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby.

2. Every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class, or on any ground whatsoever, unless there is express provision to the contrary in this Constitution.

3. No citizen shall be entitled to use or enjoy any privilege of any title of nobility or of social distinction within the territorial limits of the Republic.

4. No title or nobility or other social distinction shall be conferred by or recognised in the Republic.

Additional guarantees are provided under the following legal instruments which Cyprus has ratified and have superior force to any domestic law except the Constitution:

(a) The European Convention for the Protection of Human Rights and Fundamental Freedoms (ratified by Law 39/62);

(b) The International Convention on the Elimination of all Forms of Racial Discrimination (ratified by Law 12/67);

(c) The International Covenant on Civil and Political Rights (ratified by Law 14/69);

(d) The International Covenant on Economic, Social and Cultural Rights (ratified by Law 14/69)."

Egypt

"Belief in God has been firmly rooted in the hearts of our people for thousands of years and the provision of the Constitution and the law apply to all Egyptians without distinction."

Guinea

"Believers of all religious denominations enjoy the same protection. This explains why all religions have the same air time to propagate their doctrines and call their congregations together."

Haiti

"The Constitution of the Republic, in article 30, guarantees the protection of religious denominations and non-believers, provided they do not violate law and order or disturb the peace."

Iceland

"These groups are afforded equal protection."

Iran (Islamic Republic of)

"According to the Constitution of the Islamic Republic of Iran, the Government is duty-bound to treat non-Muslims including non-believers and free thinkers etc. in conformity with ethical norms and principles of Islamic Justice and equity, and to respect their human rights. This principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran. In any case non-believers are not recognized in the Islamic Republic of Iran."

Ireland

"Yes."

Israel

"1. The mainstream of political Zionism which led to the establishment of the State of Israel and continues to guide the direction of the country today, is based upon the idea of a democratic Jewish State. National and historical religious elements intermingle which give Israel its uniquely Jewish character. Nevertheless there is no State religion in Israel. Intrinsic to the democratic way of life, neither in law nor in practice are restrictions placed upon any individual's right to freedom of belief, regardless of which faith he belongs to or if he belongs to no faith at all. On the contrary, the State of Israel is committed to the equal protection under the law of believers of all faiths and non-believers alike.

2. Article 83 of the Palestine Order-in-Council provides that 'all persons ... shall enjoy full liberty of conscience and the free exercise of their forms of worship, subject only to the maintenance of public order and morals'. Article 17(1)(a) stipulates that 'no ordinance shall be promulgated which shall restrict complete freedom of conscience and the free exercise of all forms of worship'.

3. The principle of guaranteeing the individual rights of peoples of all faiths in Israel is expressed in the ... Israeli Declaration of Independence which guarantees freedom of religion and conscience and equality of social and political rights regardless of individual beliefs.

4. The Supreme Court of Israel, sitting as the High Court of Justice has affirmed this approach:

> 'Everyone in Israel enjoys the freedom of conscience, faith, religion and worship. This freedom is guaranteed to every person ... in Israel by virtue of its being one of the foundations on which the State of Israel rests. This freedom is anchored partly in Article 83 of the Palestine Order-in-Council 1922, and partly it belongs to the "basic rights that are not written in a book but derive directly from the nature of our State as a democratic and freedom-loving State". Pursuant to these norms - and what is stated in the Declaration of Independence - every statute and every law will be interpreted as recognizing freedom of conscience, faith, religion and worship. The Declaration of Independence assured "freedom of religion and worship to all State citizens ... it provided a pattern of life for citizens of the State and requires every State authority to be guided by its principles" (H.C.J. 262/62 16 P.D. (II) 2101 cited in H.C.J. 292/83 38 P.D. (II) 449).'

5. This basic right is further emphasized in the proposed Basic Law: The Fundamental Rights of Man. This proposed Law has passed its first reading in the Israeli Parliament, the Knesset. Article 6 of the proposed law states: 'Every person has freedom of religious belief and the freedom to observe the principles of his faith and his religious commandments'.

6. The basic approach of the State of Israel towards the education of its young people reflects the fundamental principle of equal opportunity and protection for believers of all faiths and non-believers alike. According to the Compulsory Education Law 5709-1949 (L.S.I. vol. 3, p. 125) as amended, free compulsory education is provided for all children and adolescents in Israel from age 5 to 15 (from kindergarten to the tenth grade). Free education is equally provided up to the twelfth grade for those who are interested, although it is not compulsory. As provided by the State Education Law 5713-1953 (L.S.I. vol. 7, p. 113) there are State educational institutions and Religious State educational institutions. The Minister of Education prescribes the curriculum of every official educational institution. In the non-Jewish educational institutions, the curriculum is adapted to the special conditions therein. Parents in Israel have the freedom to choose which institution their children shall attend. In addition, in religious State schools, where religious lessons are given, a pupil not belonging to the religion taught, may either take a lesson in the religion of his belief or not attend the class at that time.

7. The Israeli commitment to equal protection of persons of all faiths is manifested in the State's policies regarding the holy places. The State of Israel is acutely aware of the special place the holy places situated in Israel hold in the hearts of believers of many faiths. The Knesset has decreed that the holy places shall be protected from desecration and from any attempts to violate the guarantee of free access to them.

The Protection of Holy Places Law, 5727-1967 (L.S.I. vol. 34, p. 209) provides the following:

> '(a) The holy places shall be protected from desecration and any other violation and from anything likely to violate the freedom of access of the members of the different religions to the places sacred to them or their feelings with regard to those places.
>
> (b) . Whoever desecrates or otherwise violates a holy place shall be liable to imprisonment for a term of seven years.
>
> . Whoever does anything likely to violate the freedom of access of members of the different religions to the places sacred to them ... shall be liable to imprisonment for a term of five years.'

8. The Basic Law: Jerusalem, capital of Israel (L.S.I. vol. 34, p. 209) reiterates and emphasizes the rights of free access of members of the different religions to the holy places and the prohibition against their desecration."

Luxembourg

"Believers of all denominations and non-believers enjoy the same protection."

Panama

"According to article 35 of the political constitution, the same protection is given to believers of any religious denomination and to non-believers (free thinkers, agnostics, atheists)."

Portugal

(b) and (d) "The inviolability of freedom of conscience, religion and worship is guaranteed by the Portuguese Constitution (article 41, No. 1).

This guarantee cannot be suspended even in a state of siege.

Reaffirming the provisions of earlier constitutions, and also of Act 4/71 mentioned above, article 41, No. 2, of the Constitution states that no one can be prosecuted, deprived of rights or exempted from obligations or civic duties because of his religious beliefs or practices.

The rights set forth in that article derive from the constitutional principle of the equality of citizens before the law (art. 13).

Although non-denominational, the Portuguese State nevertheless accords special status to the Catholic religion. This special status is primarily due to the historical importance of that religion.

Until the establishment of the Republic in 1910, Portugal was a State which accepted the Catholic religion as its official religion.

The separation law of 1911, which recognized the principle of the freedom of conscience and religion, forbade religious education in schools, even private ones, and placed religious associations under the protection of the State.

The difficult situation in which the Catholic Church was placed in relation to the State by this legislation, was not resolved until the agreement was concluded with the Holy See.

The special status enjoyed by the Catholic Church does not, however, interfere with the principle of religious freedom recognized by the State with regard to all other religions.

An example of the application of the principle of equality is the social security system, which covers the clergy of the Catholic Church and ministers of other churches, and religious associations and denominations (regulatory decree 5/83 of 31 January).

It may also be mentioned that recent changes have been introduced as regards tax exemptions, which cover all denominations and not just the Catholic Church."

Rwanda

"Believers of all faiths and non-believers enjoy the same legal protection.

As an illustration one need only refer to article 16 of the Constitution, which states that 'All citizens are equal before the law, without any discrimination, in particular on grounds of race, colour, origin, ethnic group, clan, sex, opinion, religion or social position'.

Rwandese criminal law punishes aversion, hatred and discrimination based on a person's belonging or not belonging to a particular religion."

Syrian Arab Republic

In its reply, the Government of Syria stated the following:

"Article 35, paragraph 1: freedom of belief shall be safeguarded and the State shall respect all religions."

Sudan

"The State gives the necessary protection to its citizens on an equal basis whether they are believers or not."

Trinidad and Tobago

"Yes. Under the Constitution of the Republic of Trinidad and Tobago every individual has the fundamental right to freedom of thought and expression as well as freedom of conscience, association and assembly. Under the Education Act no child can be compelled, against the wishes of his parent, to attend religious instruction in a public school."

Turkey

"No different treatment takes place. Equal protection is accorded in the full sense regardless of belief, religion or conscience."

Ukrainian Soviet Socialist Republic

"The legislation of the Ukrainian SSR guarantees equal protection under the law to adherents of every religion and to non-believers. The law stipulates that every citizen has the right to express openly and propagate freely his or her own religion or his or her atheistic belief. Nobody can be coerced into professing or refusing to profess a religion, to participate or not participate in public worship, religious rites and ceremonies or into studying religion. Freedom to manifest one's religion or belief in the Ukrainian SSR is subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the rights and freedoms of other citizens."

United States of America

In its reply, the Government of the United States of America did not refer specifically to this question, but stated the following:

"The free exercise clause provides protection for the practice of any religion. It requires that the Government not prohibit any religious belief nor confer any benefit or impose any burden on individuals because of their religious beliefs. Additionally, the clause requires that the Government make some accommodation for the practice of religious beliefs. However, this accommodation must not be of such a nature as to favour religion over non-religion.

One case recently decided by the U.S. Supreme Court demonstrates the practical limits of the free exercise clause. In employment division, department of human resources of Oregon v. Ball, 110 S.C.T. 1595 (1990), the Court held that the State of Oregon could, consistent with the free exercise clause, deny claimants unemployment compensation benefits on the ground of misconduct where the claimants were dismissed from their drug counselling positions due to their use of the drug peyote, illegal under Oregon Criminal Law, at a ceremony of the native American church. The Court reaffirmed that the free exercise clause includes the right to believe and profess whatever religious doctrine one desires. However, the Court ruled that the right of free exercise of religion does not relieve an individual of an obligation to comply with a valid or neutral law of general applicability on the ground that the law proscribes conduct that is contrary to a religious practice.

In deciding this case, the Court also stated that the Government would violate the free exercise clause if it sought to ban religious acts only when they were engaged for religious reasons or only because of the religious belief displayed. The Court also ruled that States could make non-discriminatory religious practice exemptions to drug laws, but that such exemptions were not constitutionally required.

The establishment clause of the first amendment essentially ensures the so-called 'separation of Church and State' in the United States. As interpreted by the U.S. Supreme Court, it requires that Government neither aid nor formally establish a religion. The clause also prohibits the Government from promoting a preference for religion over non-religion."

Zimbabwe

"The answer is 'yes.'"

84. (c) How does your country protect the right of its citizens to practise their faith when they constitute a religious minority?

Australia

"The rights of citizens to practise their faith (whether such citizens constitute a religious minority or majority) is protected by section 116 of the Constitution, ... above, and by the criminal law of the States and Territories."

Bolivia

"As already stated, all persons enjoy equal rights. Accordingly, all inhabitants are entitled to practise their religion freely. Article 3 of the Political Constitution of the State says in this connection: 'The State recognizes and supports the Roman Catholic apostolic religion, and guarantees the public practice of any other faith. Relations with the Catholic Church shall be governed by concordats between the Bolivian State and the Holy See'."

Botswana

"Freedom of worship (conscience) is guaranteed and protected by the Constitution to each individual alone or in community with others."

Canada

"As indicated above, section 15 of the [Canadian] Charter [of Rights and Freedoms] protects religious minorities from discrimination on the basis of religion and section 2(a) guarantees them freedom of religion. A number of Charter cases have resulted in legal provisions which favoured the majority religion being declared invalid. For example, in R. v. Big M Drug Mart the federal Lord Day's Act, which required all persons to observe Sunday, the Christian day of religious observance, as a day of rest was struck down. And in Zylberberg v. Sudbury Board of Education, (1988) 52 D.L.R. (4th) 577 the Ontario Court of Appeal held that a requirement that Ontario public schools conduct religious exercises at the beginning of the day was unconstitutional, where the exercises were Christian in nature rather than ecumenical.

However it should also be noted that in some circumstances limitations on religious minorities are held to be valid, where they are reasonable limits that are demonstrably justifiable in a free and democratic society within the terms of section 1 of the Charter. For example, the courts have indicated that it is not inconsistent with the guarantee of freedom of religion in the Charter for blood transfusions to be administered in emergency circumstances to the children of Jehovah's Witnesses against their parents' wishes.

On the other hand, in Malette v. Shulman (30 March 1990) the Ontario Court of Appeal held that a doctor who administered blood transfusions to a competent adult Jehovah's Witness against her wishes, as stated in a card found on her person when she was unconscious after an accident, was liable for assault and battery.

Similarly, the protection against discrimination on the basis of religion found in human rights legislation has been of considerable practical assistance to members of religious minorities. For example, in Ontario Human Rights Commission and O'Malley v. Simpsons Sears Ltd. et al., (1985) 2 S.C.R. 536 the Supreme Court of Canada held that an employer contravened the Ontario Human Rights Code when it failed to make reasonable accommodation to the request of an employee not to work on Saturday because it was her day of religious observance."

Cyprus

In its reply, the Government of Cyprus did not specifically refer to this question, but it said the following: "No person shall be compelled to pay any tax or duty the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own."

Egypt

"The concept of racial or religious minorities is unknown to the Egyptian people, since the Constitution and the legislation that has been promulgated guarantee freedom of belief and religious observance for all Egyptians."

Guinea

"The prohibition by law of any form of discrimination and the penalties laid down for this purpose constitute a guarantee of the right of minorities, whether religious, ethnic, political or other."

Haiti

"All Haitian citizens enjoy the same protection in the practice of their faith, even if they belong to a religious minority."

Iceland

"All citizens enjoy the same legal right to practise their faith regardless of what kind of a religion or belief it is, as long as it does not go against *ordre public*."

Iran

"The minorities are protected by the Government of the Islamic Republic of Iran in accordance with principles of the constitution and the law related to the affairs of personal status of non-Shi'a Iranians adopted in 1953."

Ireland

"These rights are protected by the Constitution of Ireland (Arts. 40 and 44)."

Israel

"1. The State of Israel is committed to the protection of the right of all citizens to practise their faith, regardless of whether or not they constitute a religious minority. This fundamental principle is manifested in the laws of the State, in the interpretation and application of these laws by the courts of Israel and in administrative practice on all levels.

2. So profound is Israel's commitment to this right that despite the continuous state of war with its neighbours, Israel has made a special effort to ensure that its Arab citizens maintain connections with family members who reside in Arab countries as well as establish and maintain communications in matters of religion and belief with citizens of those same countries. Every

year, despite the security risks involved, thousands of Israel's Muslim citizens travel from Israel through neighbouring Arab countries to Saudi Arabia in order to observe the Haj. This policy was reinforced by the Supreme Court which recognized the right of freedom of movement and the State's obligation to enable its Muslim citizens to practise their religion, even if this meant permitting travel to a country at war with Israel. The Court noted Israel's record in such cases, pointing out that only 1 per cent of all requests to go on Haj were refused, and only then on the basis of clear security threats to the State (H.C.J. 488/83 37 P.D. (III) 722).

3. A further indication of Israel's commitment to the promotion of equality and peaceful coexistence between the different religious communities is the funding by the Government, through the Office of the Prime Minister and the Ministry of Religious Affairs, of mosques and other religious buildings and facilities for Israel's Arab citizens. As a result, today there are approximately 20 times more mosques in Israel than there were in 1948."

Luxembourg

"The right of a religious minority to practise its faith is guaranteed by the Luxembourg Constitution of 17 October 1868 in article 19, which reads as follows:

> 'Freedom of faith and of the public practice of one's faith and freedom to express one's religious opinions are guaranteed except as regards the punishment of offences committed in connection with the exercise of those freedoms.'"

Panama

"The right of citizens to practise their religion when they constitute a minority is protected on the basis of the principles laid down in article 35 of the Political Constitution and article 66 of the Civil Code."

Portugal

"Religious freedom ... is reflected in, among other things, the freedom to teach any religion as exercised within the framework of the denomination and the use of its own mass media to pursue its activities (art. 41, No. 5, of the Constitution).

Attention has already been drawn to the importance attached by the Constitution and the law to freedom of organization and practice of worship for all faiths."

Rwanda

"The only protective framework under the law, which is very effective, is the Constitution, which states in article 18 that freedom of faith and of the public practice of one's faith and freedom of conscience are guaranteed.

It does not make any distinction between minority and majority religious groups."

Sudan

"The right of all sects to practise their faith is protected by the Code of Religious Affairs and Awqaf (property in mortmain) of 1980. In addition, the law on the institutions of proselytism dated 1962 governs the conditions for proselytism, whatever the denomination, on the basis of an authorization. Finally, chapter XIII of the Criminal Code of 1991, which is concerned with punishing crimes connected with religion, makes it an offence, among other things, to offend religious beliefs, to profane places of worship, to disturb religious ceremonies and to interfere with the dead or with graves."

Trinidad and Tobago

"Under the Constitution ... every individual has the fundamental right to freedom of religious belief and observance. Parents or guardians of children have the fundamental right to provide a school of their choice for the education of their children or wards. Apart from Government schools there are also denominational schools in which religion is taught.

It is an offence to disturb any place of worship or to molest any person or minister therein."

Turkey

"Equal rights are secured under the Constitution. In addition to that, [the] Lausanne Treaty provides for equal rights to the non-Muslim minority."

Ukrainian Soviet Socialist Republic

"There is no special provision in the legislation of the Ukrainian SSR on the rights of religious minorities. However, articles 4 and 5 of the Act on freedom of conscience and religious organizations establishes the principle of the equality of all citizens and religions before the law. Article 5 states: 'All religions, religious sects, movements and doctrines are equal before the law. The Ukrainian SSR through its higher and local organs of State authority and administration shall encourage the establishment of mutual religious and ideological tolerance and respect among believers and non-believers, and between the believers of different religions and their religious organizations'."

United States of America

In its reply, the Government of the United States of America stated that:

"In maintaining the separation of Church and State, the establishment clause indirectly protects against religious intolerance by ensuring that the Government cannot use its authority to coerce or even influence individuals into practising one religion over another. This principle is so well established in the United States that recent cases arising under the establishment clause deal with peripheral ways in which governmental action indirectly affects religious practice.

For example, the United States Supreme Court recently struck down a statute enacted by the legislature of the State of Alabama authorizing a one-minute period of silence in all public schools 'for meditation or voluntary prayer' (Wallace v. Jaffree, 472 United States 38 (1985)). The Court found that the purpose of the statute was to endorse religion and that it did not have any clear secular purpose.

The United States Supreme Court also recently invalidated a school district programme in the State of Michigan in which teachers from religious schools taught classes at public expense in religious school buildings (School District of City of Grand Rapids v. Ball, 473 U.S. 373 (1985)). The Court found that such a programme had the 'primary or principal' effect of advancing religion.

Lastly, the Supreme Court held a State of Louisiana statute that required instruction in the theory of 'creation science' whenever the theory of evolution was taught violative of the establishment clause (Edwards v. Aguillard, 482 U.S. 578 (1987)). The Court found that the act impermissibly endorsed religion by advancing the religious belief that a supranatural being created mankind. As the Court explained, the establishment clause not only prevents the Government from endorsing a religion or religion over non-religion, it also encourages religious tolerance by persons in the United States because it does not allow a particular religion or religion itself to enjoy a superior status."

Zimbabwe

"The rights, of both citizens, residents and non-residents, to practise their faith is provided for and guaranteed by our justiciable Bill of Rights."

85. (d) Does your country apply the principle of reciprocity as regards the practice of religion by foreigners?

Australia

"The practice of religion by foreigners in Australia is not restricted in any way. Such practice is protected by s. 116 of the Constitution."

Bolivia

"As regards freedom of conscience and religious practices, foreigners enjoy the same rights as Bolivian citizens."

Botswana

"The question of reciprocity does not arise because the freedom of worship is granted to every person without regard to that person's nationality or residence."

Canada

"Subject to certain limited exceptions which are not relevant in the present context, the [Canadian] Charter [of Rights and Freedoms] applies to every one in Canada, including aliens, and not just to Canadian citizens (Singh et al. v. Minister of Employment and Immigration, (1985) 1 S.C.R. 177). Therefore the protection of religious minorities found in sections 2(a) and 15 of the Charter accrues as much to foreigners present in Canada as to Canadians."

Egypt

"Foreigners practise their religious observances in mosques, churches and temples together with Egyptians and no distinction is made between an Egyptian and a foreigner in this regard."

Guinea

"Articles 7 and 8 of the Fundamental Law proclaim an equal right for all men without distinction 'to believe, to think and to profess their religious faith, their political or philosophical opinions' on condition that they do not disturb public order or violate the law."

Haiti

"Haitian and foreigners enjoy the same rights in practising their religion."

Iceland

"No."

Iran (Islamic Republic of)

"Foreign nationals who live in Iran are free to perform their religious rites and ceremonies like other recognized religious minorities and within the limits of the law governing them. The Government of Iran accepts the principle of reciprocity within this limit."

Ireland

"No. Again, these rights are protected by our Constitution which does not permit any distinction or discrimination as regards 'the practice of religion by foreigners'."

Israel

"1. The State of Israel guarantees freedom of religion to all of its residents, regardless of country of origin and regardless of the policies of that country. This basic approach was laid down in Israel thousands of years ago: 'One law shall be to him that is homeborn and unto the stranger that sojourneth among you' (Exodus: 12, 49). In modern Israel this principle is stated clearly in the proposed Basic Law: The Fundamental Rights of Man, which provides:

> '2. All are equal before the law; there will be no discriminating on the basis of ... country of origin.'

2. Each year thousands of pilgrims from all over the world enter Israel to carry out the commandments of their faiths and worship at the holy places. Many of these visitors come from countries which declare themselves to be in a state of war with Israel. Nevertheless, the State of Israel ensures these pilgrims the full benefits guaranteed to all her citizens in terms of free access to holy places, freedom of religion and belief."

Luxembourg

"Yes."

Panama

"The principle of reciprocity as regards the practice of religion by foreigners is based on articles 19 and 20 of our Magna Carta, which read as follows:

> 'Art. 19: There shall be no personal rights or privileges by reason of race, birth, social class, sex, religion or political ideas.
>
> Art. 20: Panamanians and foreigners are equal before the law, but the law may, for reasons to do with work, health, morality, public safety and the national economy, forbid the exercise of certain activities by foreigners in general or make it subject to special conditions. The law or the authorities, depending on the circumstances, may also take measures that affect solely nationals of particular countries in the event of war or in conformity with the provisions of international treaties.'"

Portugal

See under (b).

Rwanda

"As seen above, freedom of faith and the public practice of one's faith is guaranteed for all individuals without any discrimination.

This applies both to foreigners and to nationals."

Sudan

"Our country does not apply the principle of reciprocity with regard to foreigners practising their religion, since they are treated like Sudanese citizens."

Trinidad and Tobago

"This question is unclear."

Turkey

"The Constitution states explicitly that everyone has the right to freedom of conscience, religious belief and conviction, regardless of citizenship."

Ukrainian Soviet Socialist Republic

"Foreign citizens in the Ukrainian SSR have the right to take part in religious rites and services without hindrance, and to take part in religious events conducted by the appropriate religious organizations or associations."

United States of America

The Government of the United States of America did not provide a specific answer to this question. However, in its general reply, it mentioned that "equal protection of the law is afforded to all believers and non-believers, including those who are not United States nationals (without regard to the principle of reciprocity)."

Zimbabwe

"No, because anybody in our country at any given time has his rights provided for, guaranteed and protected by our justiciable Bill of Rights."

86.(e) How does your country deal with conscientious objection to compulsory military service?

Australia

"There is no compulsory military service in Australia at present and provision exists for such service only in a time of war, i.e. if Australia were under threat of attack. If compulsory military service arose, there is provision for conscientious objection to the service or, alternatively, for conscientious objection to duties of a combatant nature. Objection on the ground of conscientious belief is recognised whether or not the ground of the belief is of a religious character and whether or not the belief is part of the doctrines of a religion. The Government proposes to introduce legislation to recognise the right of conscientious objection to particular armed conflicts, as well as to military service in general."

Belize

"Belize at present does not have any laws concerning compulsory military service and as such the question in regard to conscientious objection does not arise."

Bolivia

"Military service in Bolivia is compulsory. A person may be exempted on grounds of illness or physical disability, but the law does not provide for conscientious objection. Nevertheless, unofficially, priests and theological students of call-up age are exempted from this obligation."

Botswana

"There is no compulsory military service in Botswana, hence no conscientious objectors."

Burkina Faso

The Government of Burkina Faso did not provide a specific answer to this question but indicated, in its general reply, that "the Constitution of 2 June does not recognize conscientious objection and article 10 states that 'every citizen has a duty to assist in the defence and maintenance of territorial integrity. He is obliged to perform national service when required to do so'."

Canada

"There is no compulsory military service in Canada, and so this question does not arise."

Cyprus

"Conscientious objectors (mainly Jehovah's Witnesses) who refuse to perform military service which is compulsory under the Law, are considered to be deserters and face prosecution.

It has been decided by the Supreme Court of Cyprus that the legal provisions for compulsory military service are not unconstitutional in view of the fact that an insurgency is going on in the Republic for the last decades and that since 1974 Cyprus has been the victim of invasion by Turkey and occupation of a substantial part of its area which still continues. A photocopy of this decision (Pitsillides and Another v. Republic, 1983 2 C.L.R. 374) is attached.

However, a bill providing for the alternative of civilian service for conscientious objectors is now pending before the House of Representatives."

Egypt

"National defence and the protection of the national territory constitute a sacred obligation and military service is compulsory for all Egyptians without distinction among them on grounds of sex, colour or religion."

The Government of Egypt also provided the following additional information with regard to this question:

"The Egyptian Constitution

The Egyptian constitution deals with matters relating to religion from two fundamental standpoints, namely the need to avoid discrimination among citizens on grounds of their religion or belief, and the guarantee by the State of freedom of belief and religious observance. The Constitution also regards defence of the homeland and its territory as a sacred duty of all citizens.

These two principles and the provisions concerning military conscription are embodied in the following articles of the Egyptian Constitution.

1. Article 40: 'All citizens are equal before the law and in regard to their public rights and obligations, without any discrimination among them on grounds of sex, origin, language, religion or belief'.

2. Article 46: 'The State guarantees freedom of belief, as well as freedom to engage in religious observance'.

3. Article 58: 'Defence of the homeland and its territory is a sacred duty and conscription is compulsory in accordance with the law.'

The Egyptian Penal Code

Acts which are designated as criminal offences under the terms of article 49 of Act No. 127 of 1980, concerning national military service:

(a) Failure to report for examination or enlistment before attaining the age of 30 or 31 years, depending on the legally defined circumstances. Under the terms of article 49 of the above-mentioned Act, this offence is punishable by a penalty of not less that two years' imprisonment and/or a fine of LE 2,000-5,000.

(b) Under the terms of article 50 of the above-mentioned Act, any person who, having an obligation to perform military service, evades it, or attempts to evade it, in a fraudulent manner or by submitting invalid documents in such a way as to obtain exemption, dispensation or the postponement or avoidance of such service in an unlawful manner is liable to a penalty of three to seven years' imprisonment.

(c) Under the terms of article 51 of the above-mentioned Act, any person who inflicts upon himself, or causes others to inflict upon him, a wound, injury or infirmity that renders him permanently medically unfit for military service is liable to a penalty of up to seven years' imprisonment.

(d) Under the terms of article 52 of the above-mentioned Act, any person who, without a valid excuse, fails to respond to a call-up for service in the reserve is liable to a penalty of not less than one year's imprisonment and/or a fine of not less than LE 200.

From the above, it is evident that Egyptian law prescribes penalties for offences relating to compulsory military service, regardless of whether the motives of the offenders are attributable to religious reasons and regardless of their religious faith or belief, in accordance with the legal principle embodied in article 40 of the Constitution, to which reference has already been made."

Guinea

"Guinean law does not provide for compulsory military service and there is therefore no legal or regulatory provision on conscientious objection. However, it should be noted that under article 20 of the Fundamental Law every citizen has 'a sacred duty to defend his country'."

Haiti

"Military service is compulsory under article 268-2 of the Constitution of the Republic of Haiti for all Haitians over the age of 18. This constitutional measure has not yet been applied. No cases of conscientious objection have ever been recorded."

Iceland

"The question does not apply to Iceland, as the country has no military service."

Iran

"According to the law governing the military services all male Iranians have to accomplish their military services. This law does not recognize any exception as regards those having conscientious objection to compulsory military service."

Ireland

"There is no compulsory military service in Ireland."

Israel

"1. In the event that an Israeli citizen desires to seek an exemption from military service or postponement of such service on the basis of conscience or religious belief he may apply to do so under section 36 of the Defense Service Law (Consolidated Version) as amended (L.S.I. vol. 13, p. 328). The Law provides that the Minister of Defense has the discretion to order exemptions from military service for reasons connected with the requirements of education, reasons of State economy, extenuating family circumstances and for other reasons.

2. In a recent case the High Court of Justice held that 'other reasons' (for granting a military exemption) are not necessarily connected to reasons of security, but that such exemptions are also based on non-military grounds, which among others, include grounds of religion (H.C.J. 910/86 42 PD (II) 441).

Accordingly, postponement of military service is granted under the law for so long as the applicant is able to prove that his sole occupation is exclusively religious studies.

3. Section 39(g) of the Defense Service Law provides that in the event that a woman can prove under procedures stated in regulations of the said law that for reasons of conscience or religious family lifestyle she is prevented from serving in the military she shall receive an exemption from military service.

4. In times of military necessity it must be stressed that the IDF's needs are given high priority. Thus at present complete exemption for men on grounds of conscience is not given. This is particularly understandable in Israel's case given the vast regular armies of some neighbouring countries

which openly assert that they are at war with Israel. Israel, in contrast with her neighbours, relies primarily on civilian reservists, both men and women who are mobilized in times of necessity. Therefore, Israel's vital need to mobilize its limited population to serve as a reserve force."

Italy

The Italian Government did not reply specifically to the questionnaire but referred to a document concerning conscientious objection, which says among other things:

"In Italy conscientious objectors are covered by the Act of 15 December 1972, No. 772, and by the Decree of the President of the Republic of 28 November 1977, No. 1139, containing rules on the application of the Act itself.

On the basis of these provisions, any citizen liable to military service who declares that for compelling reasons of conscience he is opposed in all circumstances to the personal use of weapons is entitled to submit a special request to be allowed to do civilian service instead of military service.

The status of conscientious objector is recognized by a decree of the Ministry of Defence after a compulsory previous opinion by a special board, in accordance with article 4 of Act 772/72, appointed by the Minister himself.

The duration of civilian service is fixed at 12 months, following decision No. 470/89 of the Constitutional Court, declaring that article 5, paragraph 1, of Act 772/72 was unconstitutional in providing for a period of civilian service eight months longer than the duration of military service.

Civilian service is performed with bodies, organizations and institutions approved by the administration of the Ministry of Defence in the areas of assistance, education, civil protection, and safeguard and development of the national forests.

Conscientious objectors are treated in the same way for all purposes as those doing military service, except in any matters relating to disciplinary and penal questions.

In decision No. 113/86, the Constitutional Court did in fact decide that article 11 of Act 772/72 was unconstitutional in making conscientious objectors subject to the jurisdiction of military courts.

Once they are recognized as conscientious objectors, young conscripts lose their status as members of the armed forces and any offences committed in the course of civilian service are dealt with by the ordinary criminal courts."

Luxembourg

"Luxembourg has no compulsory military service."

Panama

"In the Republic of Panama there is no compulsory military service, only Panamanians are required to comply with article 306 of the Political Constitution, which reads:

'Art. 306: All Panamanians are obliged to take up arms to defend the national independence and territorial integrity of the State, except as provided in article 16 of this Constitution. The law will regulate the application of this provision and the conditions governing exemption from compliance with it.'"

Portugal

"Under article 41, No. 6, of the Constitution, the right to conscientious objection is guaranteed by law.

The National Defence Act (Act 29/82 of 11 December) regards as objectors citizens who for religious, moral or philosophical reasons cannot legitimately, in accordance with their beliefs, use violent means of whatever nature against other people, even for reasons of national, collective or personal defence, and who have been recognized as objectors under the laws defining the status of conscientious objector.

Act 6/85 of 4 May defines the status of conscientious objector.

Under this act, conscientious objectors enjoy all the rights and have the same duties as are provided by the Constitution and the law for all citizens in general which are not incompatible with the status of conscientious objector (art. 10).

The right to conscientious objection includes exemption from military service, whether in peacetime or in wartime.

Nevertheless, objectors have to perform a civilian service [under conditions] at least as onerous as those of armed military service.

In determining tasks and assigning duties to be performed in civilian service the preferences expressed by the person concerned have to be taken into account (art. 27)."

Rwanda

"Our country has no law establishing compulsory military service. Military service is completely voluntary."

Sudan

"Compulsory military service is governed by a special legislative provision, which in certain situations and circumstances protects those required to perform it. Exemption is granted in certain conditions."

Trinidad and Tobago

"This country does not have compulsory military service."

Turkey

"Until now, no cases of conscientious objection to compulsory military service have occurred."

Ukrainian Soviet Socialist Republic

"In the Ukrainian SSR objection to military service on religious grounds is prohibited. According to article 4, paragraph 3, of the Act on freedom of conscience and religious organizations, 'Nobody may use his religious convictions as a reason for refusing to fulfil his legal obligations'."

United States of America

In its reply, the Government of the United States of America did not specifically answer this question. However, in its general reply, it referred thereto as follows:

"In addition to these constitutional protections, certain U.S. statutes guard against religious intolerance. The United States provides a statutory exemption from combatant military training and service (50 U.S.C.A. APP. SEC. 456). The exemption applies to those who by reason of religious training and belief are conscientiously opposed to participation in war in any form. Under the statute, the term "religious training and belief" does not include essentially political, sociological or philosophical views or a merely personal moral code. However, the U.S. Supreme Court has held that the statutory exemption from military service applies to all persons who are opposed to war in any form on the basis of beliefs which are the functional equivalent of a theistic religious belief."

Zimbabwe

"We have not experienced such problems in this country."

87. (f) Do clashes occur with some frequency between members of different religious denominations in your country? If so, what is the Government's position? What kind of preventive measures have been adopted?

Australia

"(f) and (g) Clashes between members of different religious denominations in Australia are relatively rare. If such clashes should occur it is the responsibility of the police force to deal with them as with any incident of violence. The Commonwealth and State Governments have cooperative arrangements in place to investigate and deal with incidents of violence directed against religious or ethnic groups. Where appropriate these arrangements include consultation with the leaders of communities that may be the victims of violence. The National Inquiry into Racist Violence conducted by the Human Rights and Equal Opportunity Commission during 1989-1991 did bring to light the prevalence of incidents of racial/religious violence, where people practising certain religions have been the victims of discrimination or violence on the basis of an imputed link with a particular ethnic background. Thus, Muslim people were the subject of increased harassment at the time of the Gulf crisis. Incidents of violence were reported to the Inquiry particularly by the Jewish community and Muslim Australians. In view of this link between religious and racial harassment the Inquiry recommended that the Racial Discriminaton Act 1975 be amended to specifically provide:

'that discrimination against or harassment of a person on account of that person's religious belief be prohibited where the religious belief is commonly associated with persons of a particular race or races or of a particular ethnic group or groups and is used as a surrogate for discrimination or harassment on the basis of race or ethnicity.' (recommendation 10, p. 390)

The Inquiry also recommended the creation of offences for the act of inciting racial hostility and racist violence. The changes recommended by the Inquiry are under consideration by the Government."

Belize

"There are no clashes of violence in Belize that are noticeable between members of different religious denominations. Verbal clashes do occur, however, these are within permissible boundaries of our Criminal and Civil Laws. Although the Government of Belize has shown a high tolerance for different religious beliefs, it does not permit extremist groups to practice their religion in Belize. Churches are properly screened before approval is granted by the National Assembly for their incorporation."

Bolivia

"There is no history of clashes of this kind. Various religions at present co-exist in the country in harmony and mutual respect."

Botswana

"There are no clashes between different religious denominations."

Burkina Faso

"In its reply, the Government of Burkina Faso stated that "Burkina Faso has no religious problems either. The only known cases go back more than 10 years. They mainly concerned an inter-Muslim problem which brought adherents of two different movements into conflict in 1974 at Bobo-Dioulasse, the country's second city."

Canada

"Clashes between members of different religious denominations are not a practical problem in Canada.

The Government of Canada would also like to point out that, as outlined in Canada's Second and Third Reports on the International Covenant on Civil and Political Rights, there is a Multiculturalism Policy in place which has as one of its main aims the achievement of harmonious relations between the many cultural and racial groups that comprise Canada."

Cyprus

"No."

Egypt

"The authorities responsible for monitoring the security situation have observed a few limited attempts to exploit criminal incidents with a view to giving them a confessional dimension. The security authorities take severe measures against the perpetrators of these attempts, regardless of their religious beliefs."

Guinea

"No clashes between members of different religious denominations have ever occurred in the Republic of Guinea. Tolerance is so great that marriage is frequent between people of different religions.

Guinean criminal law (Criminal Code, arts. 174-177) lays down severe penalties for disturbances caused by ministers of religion and their followers in order to prevent interdenominational clashes."

Haiti

"There is no religious intolerance in Haiti at present. There is every sign of increasing co-existence between different religions."

Iceland

"No."

Iran (Islamic Republic of)

"In Iran there is no conflict among followers of different branches of Islam and other recognized religions."

Ireland

"No."

Israel

"1. The infrequency with which there are clashes between different communities on the basis of religion is a clear indication of the success of Israeli policy of guaranteeing the rights of the various religious communities, protecting the holy places and ensuring the public peace and order.

2. When the State of Israel has been called upon to resolve clashes of a religious nature between the various communities it is most typically in regard to the holy places. Because of the special significance of the holy places to religious peoples the world over and because of the longstanding relationships of religious communities to the holy places, the guardianship of Israel over these areas goes beyond the normal obligations of a government to maintain law and order. The State of Israel sees itself entrusted with the heavy responsibility of protecting religious values, norms and places which are divinely holy for peoples all over the world.

3. The basic approach of the State of Israel towards the holy places is one of openness, liberalness and tolerance. The State's aim is to guarantee the rights of its citizens to fulfil their religious aspirations through a balance of maintaining the *status quo* while preserving the public order. These goals have been expressed in the numerous public documents and laws protecting the holy places from desecration and ensuring free access to them (these provisions have been discussed in detail above - see answer to question (b)).

4. In a series of cases arousing religious passions and historical complexities, the Israeli Supreme Court was petitioned to allow Jews to pray upon the Temple Mount, also a Muslim holy site. The petition was based upon a police order which decreed that in order to safeguard the public order and safety, Jews were barred from organizing prayer services upon the Temple Mount.

5. In its opinions the Court recognized the profound holiness of the site to Jews as well as their historical and national right to freely enter the Temple Mount area, a right embodied in the Protection of Holy Places Law. The Courts also acknowledged the historical religious right of Jews to pray upon the Temple Mount. A right which harkens back 2000 years, to the time when the Temple of Solomon stood. And yet, in its decisions the Court did not strike the police order. The Court emphasized the fact that Jews had free access to the Temple Mount, but in order to preserve the public order and safety it could not change the *status quo* and allow Jews to organize prayer services there. Therefore, the current situation is that while Jews are free to visit the Temple Mount they are forbidden from holding prayer services there (22 P.D. (I) 440 (1968) 22 P.D. (II) 141 (1968) 30 P.D. (II) 505 (1976) 35 P.D. (IV) 673 (1981) 38 P.D. (II) 442 (1984))."

Luxembourg

"No."

Panama

"There is no known history of clashes between members of different religious denominations in our territory."

Portugal

"We do not know of any facts relating to the occurrence of clashes between members of different religions in Portugal.

We would stress that the protection of people from religious intolerance is guaranteed by the Constitution and the criminal law.

The new Criminal Code, approved in 1982, devotes one of its sections to offences against religious feelings (art. 220 to 224).

Some of these articles correspond to provisions already contained in a decree which goes back to the time of the establishment of the Republic. That is the case with the crimes of religious constraint (art. 221), hindrance or disturbance of an act of worship (art. 222) and insult or offence to a minister of religion (art. 224).

However, two other situations, which relate to the respect due to religious beliefs and faiths are covered in the new Criminal Code. They are outrages against religious beliefs and functions and against religious worship.

Under article 220 of the Criminal Code, anybody who publicly outrages and ridicules another in a rude and gross manner because of his religious beliefs or functions is liable to a penalty of imprisonment for up to one year and a fine of up to 100 days.

Anyone who profanes a place or object of worship or religious veneration is subject to the same penalty.

Under article 223 of the Code, the same penalty is applicable to anyone who publicly ridicules an act of religious worship. In both cases an attempted offence is also punishable."

Rwanda

"No clashes of this kind have hitherto been known in the history of our country."

Sudan

"Religious clashes between members of different denominations do not often occur in our country."

Syrian Arab Republic

In its reply, the Government of Syria stated that article 207 of the Penal Code stipulates as follows:

"Any act or written or oral communication that is intended to instigate confessional or racial bigotry or provoke conflict among the various communities and component elements of the nation, or which results in such instigation or provocation, is punishable by a term of six months' to two years' imprisonment, together with a fine of 100 to 200 Syrian pounds and deprival of the rights specified in the second and fourth paragraphs of article 65."

Trinidad and Tobago

"No. Infrequent or non-existent."

Turkey

"Clashes of a religious nature do not occur in Turkey."

Ukrainian Soviet Socialist Republic

"(f), (g), (h) The religious problems of the Ukrainian SSR are rooted in the past. The most serious of them is interdenominational conflict, which has involved the Ukrainian Greek-Catholic Church, the Ukrainian Autocephalous Orthodox Church and the Russian Orthodox Church.

Ideologically speaking, religion was long treated as 'the opium of the people' and all dogmas were subject to savage propaganda attacks. Under such conditions, despite legislation on religion, there were inevitably practical infringements and restrictions on the rights of believers of all faiths. In 1928 the Ukrainian Autocephalous Orthodox Church, active in the eastern Ukraine, was banned. In 1946 the Ukrainian Greek-Catholic Church was banned. Many priests of both churches were repressed and believers were deprived of places of worship and persecuted.

At the end of 1989, the Council on Religious Affairs of the Council of Ministers of the Ukrainian SSR stated that Greek-Catholic believers would henceforth 'enjoy all the rights guaranteed by law to religious communities in the Ukrainian SSR'.

In July 1990, the First All-Ukrainian Synod of the Ukrainian Autocephalous Orthodox Church was held in Kiev and elected a patriarch.

Unfortunately, the revival of the two ancient branches of the Ukrainian Church has led to very serious interdenominational conflict, which hinges on the fight for church property and spheres of influence.

The Government of the Ukrainian SSR, while not interfering in interdenominational relations, is striving to ensure that believers of all faiths have equal opportunities to enjoy their religious rights and, hence, to bring about an end to religious hostility. We are making every effort to create the necessary conditions for the normalization of inter-church relations in order to achieve a peaceful and just resolution of the religious problems which have been building up for decades.

In the context of the democratic process of renewal currently taking place in the Ukrainian SSR, the Government of the Republic recently adopted a series of measures designed to build a peaceful dialogue between the various faiths, to improve relations between Church and State and, ultimately, to ensure practical religious freedom. In turn this should facilitate a fuller and more extensive implementation of the provisions of the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief in the Ukrainian SSR.

At present there are registered in the Ukrainian SSR around 10,000 different religious associations, belonging to the Ukrainian Autocephalous Orthodox Church, the Russian Orthodox Church, the Roman Catholic, the Old Belief, Seventh-Day Adventist and Evangelical churches, and also Jewish, Muslim, Methodist and other religious associations. Over the past few years the number of religious associations in the Ukrainian SSR has almost doubled. In recent times alone a Russian Orthodox Seminary (in Kiev), a Ukrainian Orthodox Seminary (in Lvov) and several monasteries have opened in the Ukrainian SSR and a Seventh-Day Adventist Church centre has been set up. Religious associations regularly receive Bibles and other religious literature, some of it from abroad, and undertake their own publishing, producing magazines, newspapers, church calendars, and special collections. So, for instance, in 1990 approximately 250,000 copies of the Bible in Ukrainian entered the Republic from abroad. Between 1988 and the present time over 600,000 copies have been received.

The Republic's religious organizations are developing international links. In 1989-1990 several thousand religious activists from many countries visited the Ukrainian SSR."

United States of America

In its reply, the Government of the United States of America indicated that "although clashes between different religious denominations and crimes based on religious prejudice are infrequent in the United States, the United States has taken further efforts to reduce such incidents."

Zimbabwe

"No. We have not experienced any yet."

88. (g) Has your country taken any steps against the expression of extremist or fanatical opinions which may lead to religious intransigence or intolerance?

Australia

See under (f).

Bolivia

"It has not been necessary to take any such steps because no incidents of the kind mentioned have occurred."

Botswana

"We have not had any expressions of extremist or fanatical opinions which may lead to religious intransigence or intolerance."

Burkina Faso

In its reply, the Government did not refer specifically to this question, but it stated the following:

"with regard to fundamentalism and religious intolerance, Burkina Faso welcomes the fact that these extremist forms of expression have not found favour in its territory."

Canada

"In Canada there are a number of restrictions on the expression of opinions which might lead to religious intransigence or intolerance. Section 13 of the Canadian Human Rights Act prohibits communication by telephone of any matter that is likely to expose persons to hatred or contempt on the basis of a prohibited ground of discrimination. In Taylor et al. v. Canadian Human Rights Commission, (1987) 3 F.C. 593 the Federal Court of Appeal held that this provision did not violate section 2(b) of the [Canadian] Charter [of Rights and Freedoms], which guarantees freedom of expression.

Section 319 of the Criminal Code prohibits the wilful promotion of hatred against an identifiable group. In R. v. Keegstra (13 December, 1990) the Supreme Court of Canada held that this type of communication came within the scope of freedom of expression in section 2(b) of the Charter, but that the restriction upon it was a reasonable limit within the terms of section 1 of the Charter. Therefore the provision was constitutionally valid.

Furthermore, the Radio Regulations, 1986 and the Television Broadcasting Regulations, 1987 prohibit the broadcast of any abusive comment or pictorial representation that tends to expose an individual or group on the basis of a number of characteristics including religion."

Cyprus

"There has been no need for taking any such steps."

Egypt

"The Egyptian Constitution guarantees freedom of opinion, expression and publication within the limits of the law and any steps that are taken to prevent the expression of extremist opinion are regulated by the provisions of the law and the Constitution when expression of opinion exceeds the limits and becomes denigratory or contemptuous of religion or belief. It should be noted that, under article 98 (f) of the Egyptian Penal Code, the exploitation of religion to promote or advocate extremist ideologies, whether orally, in writing or by any other means, with a view to stirring up civil strife, disparaging a divinely-revealed religion or its adherents or prejudicing national unity or social harmony, is regarded as a criminal offence."

The Government of Egypt subsequently provided the following additional information concerning this question:

"The Egyptian Penal Code

The Egyptian Penal Code protects the principle of freedom of belief and religious observance, as set forth in the Egyptian Constitution, by designating as a criminal offence all acts which prejudice or infringe that principle.

Acts which are designated as criminal offences under the terms of article 98 (f) of the Penal Code (an article which was inserted therein pursuant to Act No. 29 of 1982):

A penalty of imprisonment for a period of not less than six months and not more than five years, or a fine of not less that LE 500 and not more than LE 1,000, shall be imposed on any person who exploits religion in order to promote or advocate extremist ideologies by word of mouth, in writing or in any other manner with a view to stirring up sedition, disparaging or belittling any divinely-revealed religion or its adherents, or prejudicing national unity or social harmony.

Acts which are designated as criminal offences under the terms of article 160 of the Penal Code (as amended by Act No. 29 of 1992):

A penalty of imprisonment and/or a fine of not less that LE 100 and not more than LE 500 shall be imposed on: (i) any person who destroys, damages or desecrates premises intended for the celebration of religious rites, emblems or other article venerated by the members of a religious community or group of people; (ii) any person who uses violence or threats to disrupt or interrupt the religious observances or celebrations of any community; and (iii) any person who profanes or desecrates graves or cemeteries.

Acts which are designated as criminal offences under the terms of article 161 of the Penal Code:

The penalties prescribed in the preceeding article also apply to:

(a) The printing or publiction of scriptures that are revered by members of a religious community, whose rights are performed in public, in such a way as to deliberately distort and alter the meaning of the text of those scriptures.

(b) The mimicry of a religious celebration in a public place or gathering with the aim of ridiculing it or exposing it to public view.

The provisions of the Egyptian Constitution in this connection are based on the principles of freedom of religion and belief, non-discrimination among citizens in this regard, and the guarantee by the State of freedom of religious observance. Accordingly, the position adopted by the Egyptian Constitution is in keeping with the practice of the international community, as defined in the international covenants and conventions concerning human rights and freedoms. Moreover, the role of the Egyptian legislature in the formulation of these principles was not confined to the promulgation of constitutional provisions since, as already indicated, those principles have been granted legal protection through the designation as criminal offences of all acts which prejudice or infringe them and through the prescription of penalties to deter the perpetrators of such acts.

The above provisions clearly show the extent of the respect and freedom which religions enjoy in Egypt and which is guaranteed by the Constitution and protected by law."

Guinea

"Yes! As already stated, Guinean law does not tolerate the expression of extremist opinions. In article 20, paragraph 3, the Fundamental Law states that 'every citizen has a duty to respect other people and their opinions'."

Haiti

"As stated under item 6, the exercise of religious faiths must not violate law and order or disturb the peace. The State reserves the right to intervene if they are endangered."

Iceland

"No, as there has been no motivation to take such steps."

Iran (Islamic Republic of)

"Within Iran there is no conflict among followers of different branches of Islam and other recognized religions."

Ireland

"Protection against 'the expression of extremist or fanatical opinions' is afforded under Irish law."

Israel

"1. The State of Israel recognizes that the expression in words or actions of extremist or fanatical opinions may lead to religious discrimination which may threaten the democratic principles upon which the State was established. Therefore the State of Israel has taken legal and judicial measures to limit the expression of extremism which may lead to religious intolerance. In limiting the expression of such views the Israeli courts have been careful to give the appropriate consideration to freedom of expression.

2. The Basic Laws are supported and accompanied by laws which aim at protecting the rights of Israeli inhabitants. Under the Defamation Law 1965 (L.S.I. vol. 19, p. 254), the Attorney-General may initiate libel proceedings against anyone who reviles or defames any group of citizens on the basis of their race, nationality, colour, creed or religion. A conviction under this statute does not require the strict test of a 'clear and present danger' of damage, nor are discriminatory statements regarded as protected forms of speech. In practice, this statute serves as an effective deterrent to public expressions of religious discrimination.

3. The Penal Law: Offences against Sentiments of Religion and Tradition Sec. 170-174 (L.S.I. Special Vol. Penal Law, 5737-1977) is aimed directly at protecting religious sentiments. In addition to protecting places and objects of worship and prohibiting trespass on places of worship or burial, the law makes it a criminal offence to outrage, by print or speech, religious sentiments.

4. In a case regarding a theatre show which offended the religious sentiments of a group of citizens the High Court of Justice reiterated the importance which freedom of expression has in Israeli society and reaffirmed its commitment to that principle. Nevertheless, the Court held that it will limit freedom of expression when it is used abusively as when it is deemed to be a gross offence to religious sensibilities (H.C.J. 351/72 26 P.D. II 811).

5. The Penal Law, Sec. 144 A-E Incitement to Racism (L.S.I. Special Vol. Penal Law, 5737-1977 as amended 1986) makes it a crime to print or publish any matter with the intent of incitement to racism. This applies to all publications, whether they are of a religious or a secular nature.

6. The Knesset responded directly to the threat posed to Israel's egalitarian character by the racist activities of the late Meir Kahane and his Kach party. The Knesset voted to amend its own Rules of Procedure, permitting the Presidium to refuse to place on the floor of the Knesset Bills that were of a racist nature or violated the democratic nature of the State.

7. Furthermore, The Basic Law: the Knesset (L.S.I. vol. 12, p. 85) was amended in 1986 so as to prohibit any candidate with racist intentions from running for the Parliament. The Law now reads as follows:

> '7A. A list of candidates will not be eligible to participate in elections for the Knesset if there appears among its objectives or by its actions, either expicitly or implicitly one of the following:
>
> (1) Negation of the State of Israel as the State of the Jewish People.
>
> (2) Negation of the Democratic Nature of the State.
>
> (3) Incitement to Racism.'

8. In a recent case the High Court of Justice again affirmed the vital importance of freedom of speech and at the same time acknowledged that such freedom could be limited when it constitutes a 'near certainty of real harm to the social order'. The Court stated:

> 'There was no need, in Israel, with the tragic and traumatic background of our people, to emphasize the utterly destructive influence of the incitement of racial hatred. No other form of expression can so effectively create violence, stir the lowest and most vile instincts in human beings and lead to the degradation of sections of the population against whom the propaganda is directed' (H.C.J. 399/85 41 PD (III) 255).

9. On 3 January 1979, the State of Israel ratified the International Convention on the Elimination of All Forms of Discrimination. Article 5 of the Convention guarantees the 'right to freedom of thought, conscience and religion'."

Luxembourg

"No."

Panama

"By Constitutional mandate, no steps have been taken in our country against the expression of extremist or fanatical opinions which may lead to religious intransigence or intolerance."

Portugal

See under (f).

Rwanda

"Apart from the constitutional guarantees mentioned above, other measures are embodied in the Criminal Code, in the chapter dealing with slander and insult, which contains provisions punishing religious intolerance as defined in article 2 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

Article 393

Anyone who, through defamation or public insult, expresses aversion or hatred towards a group of persons belonging by origin to a particular race or religion or who commits an act liable to provoke such aversion or hatred shall be punished by imprisonment for from one month to one year and a fine not exceeding 5,000 francs, or by one of these penalties alone.

The following shall also be liable to the same penalties or to one of them alone:

1. Any holder of public authority or citizen responsible for a public service ministry who because of a person's origins or the fact that he does or does not belong to a particular ethnic group, region, nation, race or religion knowingly denies him a right to which he is entitled;

2. Any person providing or offering to provide a good or service who without legitimate reason refuses it, either himself, or through his agent, to the person requesting it because of his origin or the fact that he does or does not belong to a particular ethnic group, region, nation or religion, or who makes his offer conditional on origin or on belonging or not belonging to a particular ethnic group, region, nation, race or religion;

3. Any person who, under the conditions specified in 2. above, refuses a good or a service to an association or society or to one of its members by reason of the origin of its members or some of them or the fact that they do or do not belong to a particular ethnic group, religion, nation, race or religion;

4. Any person who by reason of his occupation or duties is led to employ one or more staff, for himself or for another, who without legitimate reason refuses to engage or dismisses a person because of his origin or the fact that he does or does not belong to a particular ethnic group, region, nation, race or religion.

Offences of this kind are very rare, if not non-existent, and accordingly no judicial decisions rendered in such cases are available."

Sudan

"Our country has set up a Supreme Council of Religious Affairs. It has also laid down penalties for anyone who commits aggression against anyone else."

Trinidad and Tobago

"No specific legislation. It is an offence to make use of insulting, annoying or violent language with intent to, or which might tend to, provoke any other person to commit a breach of the peace."

Turkey

"Secularism is one of the constituting principles of the Republic. Religious intransigence and intolerance are deemed to be an infringement of the Constitution."

Ukrainian Soviet Socialist Republic

See under (f)

United States of America

In its general reply to the questionnaire, the Government of the United States of America stated that "in April 1990, the President of the United States signed into law a bill passed by the U.S. Congress concerning 'hate crimes' (P.L. 101-275 (1990)). Under the 'hate crimes act', the Attorney General is to acquire data about crimes that manifest evidence of a prejudice based on religion or other factors. The purposes and benefits of the act are two-fold. First, the act expresses the concern of the U.S. Government about crimes arising from religious prejudice or other forms of prejudice. Second, the systematic collection of hate crime statistics will provide the federal and state governments with comprehensive information about the national incidence of hate crimes."

Zimbabwe

"We have not experienced such incidences."

89. (h) In cases of intolerance or discrimination based on religion or belief, are any effective remedies available to the victims to assert their rights? If so, please specify what type of judicial and administrative remedies are available.

Australia

(h) & (i) "The Human Rights and Equal Opportunity Commission Act 1986 empowers the Commission to inquire into any act or practice that may constitute discrimination and, where it is considered appropriate, to effect a conciliated settlement of the matters that gave rise to the inquiry. Discrimination is defined as including any distinction, exclusion or preference made on the basis of religion, that has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. However, it does not include a distinction, exclusion or preference and in respect of a particlar job based on the inherent requirements of the job. Nor does it include a distinction, exclusion or preference -

> in connection with employment as a member of the staff of an institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, being a distinction, exclusion or preference made in good faith in order to avoid injury to the religious susceptibilities of adherents of that religion or creed (HREOC Act section 3, definition of discrimination).

Under the Act, the Commission can also endeavour to resolve complaints of breaches of human rights by Commonwealth government authorities by conciliation. For the purposes of the Act, human rights means the rights and freedoms recognized in or declared by the International Covenant on Civil and Politicial Rights, the Declaration of the Rights of the Child, the Declaration on the Rights of Disabled Persons and the Declaration on the Rights of Mentally Retarded Persons. Consequently, with respect to religion, the Commission can endeavour to resolve complaints that a Commonwealth authority has breached:

. the ICCPR, including -

> Article 2 - recognition of the rights in the Covenant without distinction, such as religion;
>
> Article 18 - freedom of thought, conscience and religion ... ;
>
> Article 20.2 - prohibition of advocacy of religious hatred ... ;

Article 24 - children's rights to measures of protection without discrimination as to religion;

Article 27 - rights of religious minorities to practise their own religion;

. the following principles of the Declaration of the Rights of the Child -

Principle 1 - Enjoyment of rights in the Declaration without distinction or discrimination on account of religion;

Principle 10 - Protection of children from practices which may foster religious discrimination;

. Article 1 of the Declaration of the Rights of Disabled Persons - enjoyment of rights in the Declaration without distinction or discrimination on the ground of religion.

Where conciliation is not considered appropriate or is unsuccessful, the Commission may, and in some circumstances must provide a report, including any recommendation the Commission makes on the matter, to the Attorney General."

Belize

"All victims whose rights are violated have a right under our laws to institute criminal or civil action and in cases of extreme discrimination by Government or Government Agency, Section (20) of the Belize Constitution provides adequate safeguards (refer to extract)."

Bolivia

"No intolerance or discrimination based on religion or belief exists. If, however, such a case were to occur, under the Bolivian legal system all persons enjoy equal protection before the law and are entitled to make use of the remedies it provides to ensure that their rights are respected and to obtain adequate redress if they have been infringed."

Botswana

"Freedom of conscience as one of the fundamental rights of the individual is protected under Section 18 of the Constitution and any individual who feels that he or she is being denied that freedom may apply to the High Court for redress."

Burkina Faso

In its reply, the Government of Burkina Faso did not refer specifically to this question, but stated the following:

"The Constitution of 2 June prohibits in title I, article 1, paragraph 3, all discrimination and particularly discrimination based on religion; and in practice no account is taken of people's religion in the application of any legislative text or administrative or judicial decision."

Canada

"Section 24 of the Canadian Charter of Rights and Freedoms provides that any one whose Charter rights or freedoms have been infringed may apply to a court for an appropriate and just remedy. The courts have indicated that this provision gives them a wide discretion to frame an appropriate remedy in the circumstances. Section 52 of the Constitution Act 1982 provides that a law which is inconsistent with the Constitution of Canada, which includes the Charter, is of no force and effect.

Human rights legislation provides a wide spectrum of remedies for persons whose rights under such legislation have been infringed. For example, under the Canadian Human Rights Act a Human Rights Tribunal may inter alia order the person found to have committed a discriminatory practice to cease such practice, to adopt an affirmative action programme, to make available to the person discriminated against those rights that were denied him or her, and/or to compensate the victim for the loss of wages or expenses incurred as a result of the discrimination."

Cyprus

"Any person complaining to be a victim of such discrimination by a public authority may, as a first step, ask to remedy the situation through a petition to such authority (administrative recourse). If the remedy sought is denied then he may have recourse to the competent Court.

Article 146 of the Constitution provides an effective judicial remedy against 'any decision, act or omission of any organ, authority or person which is contrary to any of the provisions of the Constitution or of any law or which is made in excess or in abuse of powers vested in such organ or authority or person'. The Supreme Court has jurisdiction to declare such decision or act to be null and void and of no effect whatsoever or that the omission ought not to have been made and that whatever has been omitted should have been performed. The decision in question shall be binding on all courts and all organs or authorities in the Republic.

Persons claiming to be victims of legislative measures of discrimination may attack the validity of such measures either through the above-mentioned procedure of a recourse directed against an administrative act or omission based on such legislative measures and affecting their legitimate interests, or by raising before any Court the question of unconstitutionality of such measures at any stage of judicial proceedings, civil or criminal, in which they are parties."

Egypt

"The Constitution garantees the right of all Egyptians to apply to, and appear before, the courts. The law also ensures that persons lacking financial resources are provided with the means to apply to the court in defence of their rights. In this regard, reference is made to the following.

Every citizen has the right to address, or to submit a report or complaint to, the public authorities, by means of a communication signed by him, in connection with any subject or incident, even if he is not involved therein.

The victim has the right to institute direct legal proceedings and to appear before a criminal court in the circumstances specified in the Egyptian Penal Code.

Although, in principle, the Department of Public Prosecutions has jurisdiction in regard to the institution of criminal proceedings, every citizen has the right to notify it of any detriment that he might suffer and it has an obligation to take steps to investigate the complaints and communications submitted to it."

Guinea

"Article 8 of the Fundamental Law states that 'all human beings are equal before the law', and article 9 says '... everyone has an indefeasible right to apply to a judge in order to assert his rights ... everyone is entitled to a fair trial in which the right of defence is guaranteed'.

Anyone who is the victim of an unlawful action is entitled to bring an action against the person responsible and obtain redress for the damage suffered. The existence of two levels of courts is the rule and the safeguard."

Haiti

"In cases of intolerance or discrimination based on religion or belief, the victim can appeal to the Office for the Protection of the Citizen and to the competent courts of the Republic, invoking the provisions of the laws relating to religious freedom, such as the decree of 18 October 1978 on reformed faiths and the decree of 4 February 1981 forbidding any forms of discrimination based on religion."

Iceland

"According to the Penal Code it is punishable to mock or disgrace in public the religion, beliefs or ceremonies of a lawful religious association."

Iran (Islamic Republic of)

"If supposedly there occurs a clash between followers of different religions, the victim or victims can take recourse to a competent court and claim for the damages."

Ireland

"Remedy can be sought by reference to legal redress through the Courts in Ireland and once this remedy has been exhausted through actions taken under either the European Convention on Human Rights or the optional protocol to the United Nations Covenants which Ireland has ratified."

Israel

"1. Discrimination on the grounds of religion or belief constitutes an affront to human dignity and a disavowel of the principles upon which the State of Israel was founded. Such discrimination is condemned by the courts of Israel as a violation of the human rights and fundamental freedoms proclaimed in the Declaration of Independence, in the Laws of the legislative and in the common law of the State of Israel.

2. The State of Israel has taken measures in order to prevent discrimination and intolerance on the basis of religion or belief. As mentioned above, the Penal Law: Offences Against Sentiments of Religion and Tradition, section 170-174 provides a strong deterrent against acts of religious intolerance. The law renders it a criminal offence to destroy, damage or defile any place of worship or any object which is held sacred by a group of persons with the intention of reviling the religion of any group of persons (sect. 170), disturbing worship (sect. 171); trespassing on places of worship or burial, or disturbances to funeral ceremonies (sect. 172). Additionally, the law makes it a criminal offence to publish anything in ... or give by speech anything calculated to outrage the religious feelings or beliefs of other persons (sect. 173).

3. The Israeli prohibition against discrimination on the basis of religion and conscience in the Jewish State is well illustrated in matters of employment. The Employment Service Law 5719-1959 (L.S.I. vol. 13, p. 258) states as follows:

> 'In sending to work, the Labour exchange shall not discriminate against a person on account of his age, sex, race, religion or ethnic group, country of origin, views or party affiliation, and a person requiring an employee shall not refuse to engage a person for work on account of any of these.'

4. Furthermore, the Hours of Work and Rest Law 5711-1951 (L.S.I. vol. 5, p. 125) provides:

> 'Sabbath and Jewish festivals ... shall be the established days of rest in the State of Israel. Non-Jews shall have the right to observe days of rest on their Sabbath and Holy Days.
>
> The weekly rest shall include:
>
> . in the case of a Jew, the Sabbath day;
>
> . in the case of a person other than a Jew, the Sabbath day or Sunday or Friday, whichever is acceptable for him and his weekly day of rest'.

5. The Proposed Basic Law: The Fundamental Rights of Man, Article 2, states:

'2. Equality Before the Law and the Prohibition of Discrimination

All are equal before the law; there will be no discriminating between man and woman. There will be no discriminating on the basis of religion, race, nationality, ethnic group, country of origin, or any other basis.'

6. The most effective remedy available to a citizen of Israel against discrimination based on religion or belief is recourse to the courts of the State which uphold the laws and affirm the State's fundamental commitment to the prohibition of discrimination based on religion or belief. For example the High Court of Justice has upheld these principles and declared that under the general guarantees of freedom of association non-recognized religious communities are free to organize themselves and fulfil their religious needs. The Court decreed that a municipality's refusal to rent a public building to a non-recognized religious community for the purpose of prayer was an illegal, discriminatory measure which violated the principle of religion (H.C.J. 262/62, 16 P.D. 2101)."

Luxembourg

"At the judicial level: any dispute concerned with civil rights is a matter for the judicial courts. Any victim of discrimination based on religion or belief brings his case before one of the Luxembourg circuit courts.

At the administrative level: any person injured by an individual administrative decision may appeal to the Litigation Committee of the Council of State to have it annulled.

An appeal for annulment is possible against any individual administrative decision for which there is no other remedy under the laws and regulations."

Panama

"In accordance with the provisions of the Constitution, there are no cases of intolerance or discrimination based on religion or belief in Panama."

Portugal

"At the present time Portugal is witnessing the establishment of various religious associations of the greatest variety of denominations.

Through the comparison of religious denominations, the principle of equality requires a constant effort of practical assessment as an essential guide for the treatment to be given to each one.

Portugal pays particular attention to this requirement of justice: it would be possible to mention situations where the principle of equality has been violated, because of the different treatment given the Catholic Church.

That is what happened in the field of the right to education. Quite recently, legislation was adopted on this matter. It is intended to ensure that children of any faith, and not just the Catholic faith, are effectively able to follow courses of moral and religious education in their schools in accordance with their faith (DL 286/89 of 29 August).

In the field of education, the Constitutional Court considered that a provision which required an express declaration of exemption from courses of Catholic moral and religious education violated article 41, paragraphs 1 and 3, of the Constitution. Because the unconstitutionality decision has general binding force, this rule has been dropped from the Portuguese judicial system.

Subsequently, an order (Port. 344-A/88 of 19 December) was published, requiring a positive declaration for those who wanted to follow such courses.

It can thus be concluded that there is no legal basis for discrimination and that if any cases were nevertheless to occur in this field, they would be covered by the legal system for the protection of all other fundamental rights: possibility of appeal to the courts, liability of those responsible for discriminatory practices."

Rwanda

"Yes, in such cases the victim has the possibility of a remedy in order to assert his rights:

1. He can invoke an administrative remedy. Thus, for example, a person who has been dismissed for belonging to a particular religion can appeal through the hierarchy, that is, to an authority immediately above the one which took the decision.

There is also a Council of State, which can annul an administrative decision of this kind, at the request of the victim.

2. The victim can also seek compensation for the material damage caused by bringing criminal indemnification proceedings in a judicial case brought against the person responsible for one or other of the offences listed above. (See question (g))."

Sudan

"The law guarantees any person claiming to have suffered a wrong the right to sue. There are also religious institutions and denominational advisory bodies which recommend the measures to be taken to ensure that justice is done to everyone, whether in religious matters or in others."

Syrian Arab Republic

In its reply, the Government of Syria did not refer specifically to this question, but stated the following:

"The Syrian Penal Code contains provisions that prescribe severe penalties for any action and any written or spoken statement, the purpose or result of which is the instigation of confessional or racial bigotry or the provocation of conflict among the various communities and component elements of the nation.

The law prescribes penalties for any person who commits an act of racial discrimination and every Syrian citizen has the right of recourse to the national courts for protection if he is subjected to any form of discrimination. No such cases have ever been brought before the Syrian judiciary.

The Syrian Arab Republic condemns all forms of racial discrimination and supports international measures to promote mutual understanding and tolerance among nations and racial and ethnic groups. At the country level, Syria is pursuing a policy of condemning all forms of racist and discriminatory practices, as can be seen from the Constitution of its Party, its legislation, its education system and its information media."

Trinidad and Tobago

"Discrimination on the grounds of religion or deprivation of the fundamental right to freedom of religion or observance by a Public Authority is actionable by way of Constitutional Motion. Judicial Review of Administrative action may also be available."

Turkey

"In this case there are several domestic remedies:

1. Making a formal complaint or request to the public prosecutor in order to initiate a public action against the offender;

2. Applying to the administrative courts to annul the discriminatory acts or the acts based on intolerance;

3. Filing an action for damages - if any - against the offenders."

Ukrainian Soviet Socialist Republic

See under (f).

United States of America

In its reply, the Government of the United States of America indicated that "the US Civil Rights Act of 1964 prevents discrimination against any person on the basis of their religion in access to accommodations, education, federally assisted programs and employment (42 U.S.C.A. SFC. 1981 ET SEQ.). The act ensures that civil actions can be brought against every person who, under colour of state law, subjects any citizen of the United States or other person to a deprivation of any rights, privileges or immunities secured by the Constitution and laws of the United States (42 U.S.C.A. SEC 1983). Civil action can be brought by the aggrieved persons or by the Attorney-General of the United States (See 42 U.S.C.A. SEC 1997A, 2000A-3, 2000B, 2000C-6, 2000E-6). The Attorney-General can act on his own resolve or based on a petition from an aggrieved person who is unable to bring the civil action because of financial or personal safety considerations. For employment discrimination, the act established an Equal Employment Opportunity Commission (EEOC) (42 U.S.C.A. SEC 2000E-4). The EEOC investigates charges of employment discrimination. If the EEOC finds the allegations of employment discrimination to be true, it attempts to eliminate the discriminatory employment practice by informal methods of conference, conciliation and persuasion."

Zimbabwe

"Yes. Appeal to the Supreme Court of Zimbabwe."

90. (i) Does your country have conciliation arrangements (for example, a national human rights commission, an ombudsman) to which a victim of religious intolerance can turn for protection?

Australia

See under (h) above.

Belize

"In Belize there is the Belize Human Rights Commission which is a non-governmental organization which looks into violations of Human Rights."

Bolivia

"Yes, the country has conciliation arrangements, such as the Human Rights Commission of the Chamber of Deputies, and since this year the national chapter of the Ombudsman."

Botswana

"A victim of religious intolerance goes to Court, the High Court."

Burkina Faso

In its reply the Government indicated that "as can been seen, Burkina Faso has not had any religious problems that would militate in favour of the establishment of a conciliation body. In this matter, the Constitution remains an unbreachable safeguard against any fundamentalism and any intolerance. To that end it prohibits parties based on religion and thus prevents any religious propaganda which would promote fundamentalism".

Canada

"Federal, provincial and territorial human rights codes are administered by human rights commissions. These commissions have powers to investigate, conciliate and settle human rights complaints, as well as refer them to a human rights tribunal for adjudication in appropriate circumstances. For example, section 47 of the Canadian Human Rights Act provides that the Canadian Human Rights Commission may appoint a conciliator for the purpose of attempting to bring about a settlement of the complaint. The conciliator must be someone who was not involved in the investigation process, and any information received by him or her in the course of the conciliation process is confidential."

Cyprus

"Yes. A law providing for the office and powers of an Ombudsman was enacted in early 1991 (Law 3/91). The first Ombudsman has already been appointed."

Egypt

"Egypt has councils, consisting of representatives of popular and executive bodies, which apply customary practice and to which citizens can resort for the settlement of some general disputes that might arise between them (vendettas, boundaries, division of inherited property, etc.)."

Guinea

"There is as yet no conciliation body such as a national human rights commission.

However, draft legislation to establish a national human rights commission to deal with such matters is being considered by the Transitional National Recovery Council, the deliberative body."

Haiti

"A person who is the victim of an act of religious intolerance can assert his rights before the competent courts of the Republic. He can seek the assistance of certain national non-governmental organizations for the defence of human rights."

Iceland

"No."

Iran (Islamic Republic of)

"Since there is no discrimination or intolerance based on religion or belief in Iran, there is no need to create a specific protective organ for this purpose. Nevertheless a commission has been created in accordance with article 90 of the Constitution and whoever has a complaint concerning the work of the executive or judicial power can forward his complaint to this Commission. The Commission must investigate his or her complaint and give a satisfactory reply. In cases where the complaint relates to the executive or the Judiciary, the Commission must demand proper investigation in the matter and an adequate explanation from them, and convey the results within a reasonable time. In cases where the subject of complaint is of public interest, the reply must be made public. In addition a court has been established known as the Court of Administrative Justice under the Supervision of the head of the Judiciary which investigates the complaints, grievances and objections of the people with respect to government officials and institutions."

Ireland

"No. Remedy can be sought as outlined at (h) above."

Israel

"In addition to recourse to the courts of the State all citizens of Israel are free to turn to the State Comptroller in the event of injury as a result of religious discrimination. According to the State Comptroller Law 5731-1971 (L.S.I. vol. 12, p. 107) in this capacity the Comptroller shall function as the 'Commissioner for Complaints from the Public'.

According to the law any person may submit a complaint to the Commissioner, the subject of which may be any act which is directly injurious to or directly withholding a benefit from the complainant.

The following bodies shall be within the sphere of the Commissioner's inspection:

- every Government office;
- every enterprise or institution of the State;
- every person or body holding, otherwise than under contract any State property or managing or controlling any State property on behalf of the State;
- every local authority;
- every enterprise, institution, fund or other body in the management of which the Government has a share;

- every person, enterprise, institution, fund or other body made subject to inspection by law, by decision of the Knesset or by agreement between him or it and the Government;

- every enterprise, institution, fund or other body in the management of which one of the bodies enumerated in paragraphs (2), (4), (5) and (6) has a share; but the inspection of such a body shall not be actually carried out unless and in so far as the Committee or the Comptroller so decides;

- every enterprise, institution, fund or other body assisted, either directly or indirectly, by the Government or by one of the bodies enumerated in paragraphs (2), (4), (5) and (6) by way of a grant, a guarantee or the like; but the inspection of such a body shall not be actually carried out unless and in so far as the Committee or the Comptroller so decides."

Luxembourg

"Any victim of an act of religious intolerance can apply to the Petitions Commission of the Chamber of Deputies."

Panama

"There are at present various private human rights institutions in Panama. Act 15 of 28 October 1977, by which the American Convention on Human Rights was approved, is in force, and the Panamanian State is party to that Convention."

Portugal

"In accordance with article 23 of the Constitution, citizens can complain to the Provedor de Justiça (Ombudsman) about actions or failures to act on the part of the authorities. He has no power to take a decision, but he will consider the complaints and make appropriate recommendations to the competent bodies in order to prevent and remedy injustices (No. 1).

The activity of the Provedor de Justiça is independent of the discretionary and contentious remedies provided for by the Constitution and the law (No. 2).

The Provedor de Justiça is an independent personality who is appointed by the Assembly of the Republic (No. 3)."

Rwanda

"There is no national human rights commission in Rwanda nor any mediator. We consider, however, that in CESTRAR (the Central Trade Union of Rwandese Workers) our country has an organization which can play a very effective role as a conciliatory body if the victim is a worker who has problems with his employer.

The same applies to the Appeals Chamber for staff of the central administration."

Sudan

"Sudan does have a national human rights commission. In addition, anyone who considers himself to be the victim of an injustice can take his case to the Ministry of Religious Affairs."

Trinidad and Tobago

"There is no National Human Rights Commission but there is an Ombudsman who may investigate any complaint of Administration injustice and who may lay in Parliament reports on such injustices."

Turkey

"There exists a Human Rights Commission in the Grand National Assembly, constituted from members of the three parties represented at the Parliament, to pursue human rights violations, and disclose them to the Grand National Assembly."

Ukrainian Soviet Socialist Republic

"In the Ukrainian SSR, the unimpeded and effective implementation and observance of legislation on freedom of conscience and religious organizations is supervised by the Soviets of People's Deputies, their executive and administrative organs, the Council on Religious Affairs and its local branches, and other bodies of the Ukrainian SSR in accordance with their powers under the law. Furthermore, individuals whose religious rights have been violated may have legal recourse if the violation is the result of failure to abide by current legislation on freedom of conscience and religious organizations."

United States of America

In its reply, the Government of the United States of America stated that "a Commission on Civil Rights with a broad mandate to investigate and study discrimination, including that based on religion, was established in 1983 (42 U.S.C.A. SEC. 1975). The Commission on Civil Rights is composed of eight members. Four members are chosen by the President of the United States, two members are chosen by the President *pro tempore* of the United States Senate, and two members are chosen by the speaker of the United States House of Representatives. The Commission on Civil Rights investigates allegations that citizens are being denied the right to vote because of religious or other discrimination, studies and collects information concerning legal developments constituting religious or other discrimination, appraises the laws and policies of the federal government with respect to religious and other discrimination, and serves as a clearinghouse for information in respect of religious and other discrimination.

This statute establishes no new category of crimes but concerns collection of information about actions which are otherwise criminal and which are motivated by or manifest evidence of prejudice based, *inter alia*, on religion. The intent of the statute is to aid law enforcement officials in focusing their resources, to allow policymakers to gauge the extent of the problem, and to assist local community groups in directing their educational efforts."

Zimbabwe

"We have the Ombudsman and all our judicial Courts up to the Supreme Court of Zimbabwe itself."

91. (j) In general, does your Government think it would be desirable to revise national legislation to bring it more in line with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief? If so, would your Government welcome appropriate technical assistance from the Centre for Human Rights?

Australia

"The Government believes that Australian law and practice are in conformity with the Declaration. It is the Government's belief that, subject to the incidents brought to light by the National Inquiry into Racist Violence, religious intolerance and discrimination are not significant problems in Australia. As stated above, the Government is currently examining the relevant changes proposed by that Inquiry. Apart from the possible need for such measures, the view of the Australian Government is that existing laws and mechanisms are adequate to deal with incidents of religious intolerance when they occur and does not see a need for the revision of national legislation."

Belize

"At present the machinery and laws in place are adequate to protect discrimination based on religious or any other belief."

Bolivia

"Bolivian legislation is in line with the principles stated in the Declaration, guaranteeing freedom of religion and categorically prohibiting any form of intolerance or discrimination based on religion or belief. Nevertheless, Bolivia would have no objection to receiving any advice from the Centre for Human Rights designed to further the free practice of religion in the country."

Botswana

"At present we do not think that there is any need to revise our laws. Indeed we believe that our Constitution provides adequate protection."

Canada

"Neither the Canadian Charter of Rights and Freedoms nor human rights legislation contains as specific or detailed provisions concerning religious intolerance and discrimination as the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. However, in fact these two sources of human rights protection in Canada have been interpreted and applied in such a manner as to implement many of its provisions. Indeed, relevant international human rights instruments are taken into account in interpreting Canadian law.

For example, in the Keegstra case referred to above, the Supreme Court of Canada referred to the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the European Convention for the Protection of Human Rights and Fundamental Freedoms in concluding that the prohibition of hate propaganda in the Criminal Code was constitutional.

Furthermore, there are other legislative provisions in Canada than the Charter and human rights legislation which protect persons from religious intolerance and discrimination, such as the provisions outlined under question (g) above.

The Government of Canada is, however, mindful of the importance of seeking to ensure that the basic principles set out in the Declaration are respected in a practical way in Canada. This is an area where there have been major developments in Canada in recent years, and furthermore where it is important to ensure that progress continues. For example, it is just within the last few years that human rights legislation in Canada has been interpreted to preclude systemic as well as direct discrimination, and to include a doctrine of reasonable accommodation. The federal government is currently considering amending the Canadian Human Rights Act to provide express statutory recognition for these doctrines."

Cyprus

"It is believed that the guarantees against all forms of discrimination embodied in the legal system of Cyprus are both adequate and effective."

Egypt

"The Egyptian Constitution and national legislation make provision for numerous citizens' rights as set forth in the Universal Declaration of Human Rights and are consistent with most international constitutions and legislative instruments that have been promulgated in this regard. Egypt participates in numerous human rights conferences and symposia at the regional level (League of Arab States, Organization of African Unity) and also at the international level (United Nations)."

Guinea

"The Government of the Republic of Guinea does not just want to amend its national legislation, it is in the process of drafting a number of texts to bring that legislation closer into line with the international legal instruments on human rights.

Any technical assistance by the Centre for Human Rights in this area would be warmly welcomed."

Haiti

"Religious freedom is guaranteed under Haitian law. Any form of intolerance or discrimination based on religion or belief is considered a violation of law and order and a disturbance of the peace under Haitian law, which is based on the principles of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief."

Iceland

"It does not seem necessary."

Iran (Islamic Republic of)

"The Government of the Islamic Republic of Iran, within its legal duties and responsibilities may revise national legislation whenever it deems it appropriate and in accordance with the principles of Islam and the Constitution."

Ireland

"Ireland considers that there is no need for legislative revision nor for technical assistance."

Israel

"The principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief are supported by the State of Israel. Israel's commitment to these principles is consistantly expressed in the statutes, in the judicial decisions and on every level of civil administration of the State. Therefore, the State of Israel does not find it necessary to receive assistance or to revise national legislation to reflect the aims of the Declaration. At the same time Israel is willing to cooperate with the Centre for Human Rights in helping to foster understanding for these principles throughout the world."

Luxembourg

"Luxembourg legislation is in line with the principles stated in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief."

Panama

"The Panamanian Government considers that it is not necessary to adopt new measures with regard to the fundamental principles stated in the Declaration on the Elimination because they are already guaranteed by Panamanian law. Nevertheless, we believe we could benefit from appropriate technical assistance provided by the Centre for Human Rights in this area."

Portugal

"On the basis of the foregoing, it is possible to assert that the Portuguese legal system has long been in line with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

The Constitution adopted in 1976 strengthened and clarified the principles of religious freedom, strongly influencing the ordinary legislation passed since that date.

As regards practice, the actual application of these legal provisions, the almost total lack of cases relating to any form of religious intolerance or of discrimination based on religion before the Portuguese courts is the most eloquent proof that the constitutional and legal principles and provisions are applied."

Rwanda

"Yes. Moreover, a draft designed to bring Rwandese legislation into line with the conventions, declarations, protocols and other international legal instruments on human rights is being prepared. The assistance of the Centre for Human Rights could be useful to us in drawing up this draft."

Sudan

"Our Government would accept appropriate technical assistance from the Centre for Human Rights with regard to the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief."

Trinidad and Tobago

"Policy question."

Turkey

"In this regard, current Turkish legislation is in full compliance with international norms. The Government of Turkey supports all efforts to eliminate intolerance and discrimination based on religion and belief at the international level."

Ukrainian Soviet Socialist Republic

"Legislative activity in the Ukrainian SSR in recent years has been aimed at the adoption in the Republic of laws corresponding as far as possible to universally recognized international standards on human rights, including religious rights and freedoms. The 1991 Act on freedom of conscience and religious organizations contains a series of articles consonant with the provisions of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

In the opinion of the Ukrainian SSR, a significant shortcoming in the international legal mechanism for regulating this question is the absence of a treaty guaranteeing religious rights and freedoms. Important as the provisions of the 1981 Declaration are, they need to be couched in legally binding terms so that States could be called to account under international law if they were violated. In this regard, we endorse the recommendation of the Special Rapporteur to the Commission on Human Rights on the advisability of formulating a draft international convention on the elimination of all forms of intolerance and discrimination based on religion or belief. The most acceptable way of formulating such a draft might be that tried and tested with the Convention Against Torture, the Convention on the Rights of the Child and some other documents, that is, to create an open-ended working group of the Commission on Human Rights."

United States of America

In its reply, the Government indicated that "the Government of the United States believes its national laws are in full conformity with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief".

Zimbabwe

"Our present legislation already caters for such eventualities."

92. (k) Does your country think it desirable to receive advisory assistance from the Centre for Human Rights to organize courses and seminars to train selected officials from your country (legislators, judges, lawyers, educators, law enforcement officials, etc.) in the principles, rules and remedies applicable to freedom of religion and belief?

Australia

"As stated above, the Government does not believe that religious intolerance or discrimination is a substantial problem in Australian society. The Government believes that relevant Australian officials are aware of the principles contained in the Declaration and of the need to protect freedom of religion and belief. The Government does not see a need for any training assistance in these matters."

Belize

"Whatever assistance the Centre for Human Rights could offer to our legislators, judges, lawyers, educators, law enforcement officials, etc., in the principles, rules and remedies applicable to freedom of religion and belief or any other matter would help to strengthen our present system."

Bolivia

"Despite the fact that there is complete freedom of religion in Bolivia, we consider that public officials always need training and further education, particularly in such a delicate area as this. Bolivia is accordingly willing to receive advice from the Centre for Human Rights with a view to organizing courses or seminars in this area."

Botswana

"Yes, we think it is always desirable to receive assistance from the Centre for Human Rights to organize courses and seminars for officials such as members of Parliament, judges, lawyers, etc., in the principles, rules and remedies applicable to freedom of religion and belief and on Human Rights. Such assistance would be most beneficial if given through the University of Botswana which has recently held a very successful seminar on Human Rights (Reform of Criminal Law) for southern Africa."

Burkina Faso

In its general reply to the questionnaire, the Government of Burkina Faso indicated that "Burkina Faso would like to benefit from the assistance of the advisory services of the Centre for Human Rights to organize seminars and courses for some of its officials, inasmuch as such seminars and courses could help to promote a greater understanding of tolerance in the process of building the nation".

Canada

"The Government of Canada would be most interested in participating in courses or seminars organized by the Centre for Human Rights relating to freedom of religion and belief that may be of assistance to officials in this country, or in which such officials might share their experience in this area with officials from other countries seeking to exchange knowledge. It is suggested, however, that, in general, resources may be put to better use for assistance to those countries in which there is a history of restriction related to freedom of religion and belief."

Egypt

"The Government attaches great importance to the need to ensure that the training courses and seminars that are held at law school and police academies include subjects related to human rights and freedoms."

Guinea

"The Guinean Government would greatly appreciate the organization of courses and seminars on the principles, rules and remedies applicable in the area of freedom of religion and belief."

Haiti

"The Republic of Haiti would like to take advantage of the advisory services of the Centre for Human Rights in order to organize courses and seminars to train selected officials in the principles, rules and remedies applicable to freedom of religion and belief."

Iceland

"It does not seem necessary."

Iran (Islamic Republic of)

"The Government of the Islamic Republic of Iran welcomes appropriate technical assistance and advisory services from the Centre for Human Rights in holding seminars and courses. It should be mentioned that two seminars on human rights issues were held in Iran in 1990."

Ireland

"Ireland does not consider it necessary or desirable to receive advisory assistance as suggested."

Israel

"The principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief are supported by the State of Israel. Israel's commitment to these principles is consistantly expressed in the statutes, in the judicial decisions and on every level of civil administration of the State. Therefore, the State of Israel does not find it necessary to receive assistance or to revise national legislation to reflect the aims of the Declaration. At the same time Israel is willing to cooperate with the Centre for Human Rights in helping to foster understanding for these principles throughout the world."

Panama

"As regards the question of receiving advice from the Centre for Human Rights in order to organize courses and seminars to train law-enforcement officials in the principles, rules and remedies applicable to freedom of religion and belief, we should like to take advantage of this offer."

Portugal

See under (j).

Rwanda

"Yes. Action has already been initiated on this matter. The Centre for Human Rights has been asked, as part of the services it offers countries requiring technical assistance in order to strengthen their legal institutions, to help train selected Rwandese officials who are directly or indirectly involved in the promotion and observance of human rights in Rwanda."

Sudan

"Yes, our country would welcome the organization of training courses or seminars on the principles, rules and remedies applicable to freedom of religion and belief."

Trinidad and Tobago

"Policy question."

Turkey

"Such advisory assistance would be desirable."

Ukrainian Soviet Socialist Republic

"The Ukrainian SSR considers that courses and seminars held under the auspices of the United Nations Centre for Human Rights to train officials on the problems of guaranteeing religious rights and freedoms would be a very useful form of advisory assistance for Member States, including the Ukraine."

United States of America

In its reply, the Government of the United States of America referred to this question as follows:

"The United States fully supports the efforts of the Centre for Human Rights in this field, as well as the work of the Special Rapporteur. However, the United States Government does not believe that it requires advisory assistance from the Centre at this time."

Zimbabwe

"The answer is 'yes.'"

B. Analysis of replies to the questionnaire

93. At the time of the finalization of the present report, on 30 November 1991, replies had been received from the Governments of: Albania, Australia, Bahamas, Bahrain, Bangladesh, Belize, Bolivia, Botswana, Burkina Faso, Canada, Chad, Chile, China, Colombia, Cuba, Cyprus, Dominica, Dominican Republic, Ecuador, Egypt, Finland, Germany, Greece, Grenada, Guinea, Haiti, Iceland, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Jamaica, Luxembourg, Malta, Mexico, Morocco, New Zealand, Nicaragua, Norway, Oman, Panama, Portugal, Romania, Rwanda, Saint Vincent and the Grenadines, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Yugoslavia and Zimbabwe.

94. The Special Rapporteur was able to note the following general patterns from the replies provided by the Governments mentioned above.

(a) Distinction between religion, religious sects and religious associations in national legislation

95. The Governments which replied to the questionnaire addressed a wide variety of matters in their response to this question. Countries generally did not provide a clear definition of religion or of religious entities; the question cannot therefore be answered conclusively. In practice, the differences between religious entities seem to be manifested mainly in matters concerning their recognition, legal personality and registration.

96. In its response to the questionnaire, the Government of Switzerland stated that belief was "any relationship between man and the deity. Religion is viewed in a broad sense. It includes the right to believe in a god, to believe in more than one god, to believe in none, to believe in nature or in man in general." It also encompassed the freedom to express and to disseminate one's religious beliefs and that criticism of the religious opinions or beliefs of others must therefore be tolerated, provided the limits of public order were respected.

97. The Government of the Ukrainian Soviet Socialist Republic defined a religious community as "a local religious association of believers of one religion, denomination, sect or doctrine, who are over 18 years of age and have willingly come together in order to jointly manifest their religion or belief, worship and perform religious rites and ceremonies".

98. Only the Government of Guinea provided a definition of what constitutes a religious sect: "A religious sect, as distinguished from a religious association is a group of individuals initiated into a certain religious practice and usually bound to each other by a secret act of solidarity." However, in its answer the Government of Guinea also indicated that it "does not encourage the existence of religious sects, which are often a source of intolerance, fanaticism and practices prejudicial to the preservation of man's life and physical integrity".

99. A number of States pointed out that secrecy of religious rites and doctrine is not desirable. The Government of Yugoslavia stated in its answer that "the term religious sect, which members of the largest, traditional religious communities sometimes use in referring to smaller religious communities only recently active in the country, is considered derogatory or insulting".

100. The experience he has acquired over the years has led the Special Rapporteur to conclude that the difference in the treatment accorded to religious entities stems from their historical presence in a given country, their origin and the type of activity they engage in. In a number of countries, even recognized religions have encountered difficulties, including censorship and intimidation, in exercising their activities. This has been the case with respect to the social work carried out among the underprivileged classes of society performed by members of churches whose followers constitute a majority in several Central and Latin American countries.

101. The so-called sects, cults and what are usually known as "new religious movements" have reportedly been the most frequent victims of religious intolerance and discrimination. However, as they have been the subject of controversy in many countries, it is extremely difficult to appraise allegations of intolerance concerning them. The Special Rapporteur has noted that when religious groups, in particular sects or similarly regarded groups, have been prosecuted, such cases frequently involve illegal financial activities including tax evasion, embezzlement of funds or activities which clearly fall outside the scope of religious practice. It is very difficult to evaluate whether such accusations are well founded or used merely to discredit a given sect. In order to shed light on the matter judicial proceedings, with all the necessary safeguards provided for in international instruments, would be required.

102. Members of religious entities perceived as sects by the authorities of the countries in which they carry out their activities frequently face a number of difficulties in performing their religious activities. For example, the Jehovah's Witnesses faith has often been outlawed and its followers have been considered as members of a sect and have suffered persecution in a number of countries. The Unification Church and the Church of Scientology are also considered as sects in many countries and have not been granted legal status. They have often been subjected to legal proceedings because of activities that the authorities perceived as falling outside the purview of purely religious activities. In the Islamic Republic of Iran, followers of the Baha'i faith have been described by the authorities as belonging to the "misguided Baha'i sect" or "the despised sect". In a communication addressed to the Special Rapporteur, the Government of Indonesia indicated that it differentiates between four religions, which enjoy constitutional guarantees, and "misleading religious cults", which has resulted in the prohibition of the Baha'i movement and Jehovah's Witnesses. It has also been alleged that persons have been prosecuted in Indonesia and in Morocco for belonging to or forming an unauthorized religious organization or sect. In Pakistan, members of the Ahmadi community, who consider themselves Muslims but whom the Government considers as belonging to a heretical sect by the Government, have reportedly suffered persecution, as described in the country section in chapter II and in the Special Rapporteur's previous reports. In India, the Ananda Marga are reportedly regarded as a threat to national security in the guise of religion.

103. With regard to the legal requirements for the recognition of religious entities, the legislation of most countries prohibits discrimination among religions, religious communities and religious organizations. The majority of the Governments that replied to the questionnaire stated that they guarantee full freedom of religious obervance and assembly, that all their citizens were equal before the law and that all recognized religions enjoyed equal status. Most countries adopt a neutral position with regard to religious and ideological beliefs and do not accord privileged treatment to any particular faith.

104. The laws of a considerable number of countries prohibit practices which would prevent the free exercise of any religion, while other countries have removed from their legislation provisions which are explicitly directed against a particular religious practice. In most countries, the criterion for recognizing religions, religious sects and religious associations is the legal

personality granted to them by the Government. A number of Governments have indicated that no religious faith has been denied legal personality or had it withdrawn. However, the disbanding of a religious association may ensue when authorities perceive it as being involved in activities which are not related to religious beliefs. Several Governments have stated that they have no legislation relating to religions or religious associations, nor any related court rulings. Others only recognize "known" religions.

105. In its reply to the questionnaire, the Government of Portugal stated that a religion or religious association has to request legal recognition from the Ministry of Justice through a petition which must be signed by at least 500 followers identified as residing in Portugal. In addition, recognition requires that those wishing to constitute a religion indicate the principles of its doctrine and its disciplinary norms, provide a description of the religious rites, and disclose the identity and hierarchy of its leaders. All confessions are said to enjoy tax exemption. The Government of Tunisia stated that "religions gain acceptance on their own merits and compel respect by their origin and the holy books which sanctify them". It also indicated that the founders and leaders of a denomination must not have been convicted of a crime or offence against public morals.

106. A number of countries provided details on the religious denominations which have been recognized officially and information about the laws governing different religious denominations, including the jurisdiction of the courts belonging to the respective denominations in matters of religious laws relating to personal, status such as marriage, divorce, alimony, maintenance, guardianship, legitimization of minors, succession, legacies and the administration of the property of absent persons.

107. Although the laws of a given country may oblige the State to take a neutral stance on religious issues, certain denominations may in reality enjoy beneficial treatment. This is most often the case when a denomination has had a historically important position in a country. The priviliged status is manifested primarily where religious communities acquire public law status and the right to levy taxes, as can be seen from the response provided by the Government of Switzerland. Where there is a separation between the church and the State, as is the case in Germany, only religious communities that are corporate bodies are entitled to levy taxes. However, the existence of official churches with public law status and of private law religious communities is not perceived by the countries in question as infringing on the freedom of religious observance.

108. On the basis of the information he has received over the years, the Special Rapporteur notes that persons belonging to churches or associations considered as "unofficial" may face persecution in some countries. This has reportedly been the case of Catholic priests in China who have expressed their loyalty to the Holy See rather than to the Patriotic Catholic Association. Priests are said to have been prosecuted in Viet Nam for organizing unauthorized pilgrimages.

109. However, the treatment accorded to religious entities is mostly based on their registration with the competent authorities. According to a communication from the Government of Myanmar, all religious organizations

are required to register with the Government and religious publications are subject to government control and censorship. In the Islamic Republic of Iran, where Christianity is one of the four religions recognized in the Constitution, all Christian denominations were reportedly required to re-register six years ago in order to maintain their legal status. Two hundred churches were allegedly closed in Zaire when the Government decided to enforce more strictly the procedures relating to applications for registration by religious organizations.

(b) Protection of believers and non-believers

110. The majority of Governments that responded to the questionnaire stated that they guarantee equal treatment and respect to all citizens, who are said to enjoy the same rights, whether their beliefs are grounded in religious or in a secular morality. In most countries, this protection is also said to be extended to foreigners.

111. In its reply to the questionnaire, the Government of the United States of America indicated that, although the Government was required to "make some accommodation for the practice of religious beliefs, ... this accommodation must not be of such a nature as to favour religion over non-religion". The reply also indicated that the Government was prohibited from promoting a preference for religion over non-religion. The replies of most Governments indicated that they did not discriminate between believers and non-believers and that prohibitions also existed against compelling an individual to belong to a church. The Government of the Islamic Republic of Iran indicated that it "is duty-bound to treat non-Muslims, including non-believers and free-thinkers, etc. in conformity with ethical norms and principles of Islamic justice and equity, and to respect their human rights". Nevertheless, it is also the only Government to have stated that "non-believers are not recognized". In Turkey, persons have been prosecuted for "attempting to change the secular nature of the State".

112. The restriction of the right to manifest one's religion relates primarily to the types of activities religious entities engage in. Most countries require that these entities show respect for the fundamental principles contained in the Constitution, national sovereignty and territorial integrity, public order and the law, public health and morals, the physical integrity and dignity of persons, and the limitations prescribed by law to protect public safety and the fundamental rights of other individuals. In this regard, the Government of Portugal pointed out that the guarantee of the inviolability of the freedom of conscience and religion cannot be lifted even during a state of emergency.

113. In certain countries the mere expression of religious beliefs may entail grave consequences, such as incarceration. This is reportedly the case in Viet Nam and was also the case in Albania before the changes which have recently taken place. It has also been reported that persons have been persecuted in Tibet for saying prayers or distributing texts of prayers. The public display of visible symbols of any religion other than the official one is said to be considered illegal in Saudi Arabia or, as far as the Ahmadis are concerned, in Pakistan. The public expression of the tenets of the

Shia Muslim faith is said to have been restricted in Iraq. In the Islamic Republic of Iran, followers of the Baha'i faith who have stated that they are Baha'is before public officials have been dismissed from Government employment and have suffered various other forms of discrimination and persecution. On the other hand, in Mauritania persons may reportedly be sentenced to death for not expressing their religious beliefs, i.e. praying.

114. Members of the clergy of various Christian denominations have been the victims of violence, not for expressing their religious beliefs, but on account of the way the tenets of the churches to which they belong are manifested, for example community and church work with the underprivileged classes of society performed out of social commitment.

(c) Protection of the rights of religious minorities

115. Most of the Governments that responded to the questionnaire stated that the right of all persons to practise their faith, whether they belong to a religious minority or whether they are citizens, residents or non-residents, is protected by the law. The majority also indicated that recourse is available to persons who feel that this right has been violated.

116. In its response to the questionnaire, the Government of Switzerland indicated that "freedom of worship signifies protection not only of traditional religions but also of new forms of worship". This encompasses all types of Christian religious association, all universal religions and their subgroups as well as new religious communities. The Government of the Islamic Republic of Iran indicated that "the minorities are protected by the Government ... in accordance with principles of the Constitution and the law relating to the affairs of personal status of non-Shia Iranians ...". The Government of the Syrian Arab Republic stated that the Jewish and Christian minority communities benefited from the necessary de jure and de facto protection. The Government of Morocco stated that there is "very high toleration in Morocco for the religions of the Book". The Government of Indonesia indicated that it did "not adopt the terms majority and minority as these words are generally understood", adding that its citizens were "first and foremost Indonesians, with the inherent right to adhere to the religion of [their] choice".

117. In a number of countries where the Catholic church has traditionally played an important role as a majority religion, it has maintained legal personality under public law. Minority churches are usually able to establish themselves as corporate bodies under private law and therefore depend to a certain extent on the administrative authorities. This is the case in a number of Latin American countries which do not consider a concordat between the Government and the Holy See as being inconsistent with the exercise of freedom of religion by minority denominations, and do not view it as jeopardizing the equality before the law of citizens belonging to religious minorities.

118. In its reply to the questionnaire, the Government of Canada stated that legal provisions favouring the majority religion have been declared invalid in a number of cases. The Canadian Charter of Rights and Freedoms safeguards religious minorities from the threat of the "tyranny of the majority". The majority of Governments invoked the same reservations concerning public order and morality as limiting the right of religious practice by minorities.

119. From the specific incidents of religious intolerance which have been brought to his attention, the Special Rapporteur has observed that minority religious groups are often not able to practise their religion freely in many countries. This is principally the case in countries which have one official religion. Members of religious minorities, especially those belonging to sects, may be subjected to persecution if they openly state that they belong to a particular faith. The mere expression of religious beliefs by a minority can also entail persecution in a number of countries. Even in countries where the Constitution recognizes and provides guarantees for a number of religions, the freedom to practise them may not always be equal.

120. In some countries where one Christian denomination is predominant, members of other Christian denominations have encountered difficulties in carrying out their religious activities. Interconfessional violence reportedly based on religious hatred and a reciprocal lack of understanding between two Christian denominations has resulted in a prolonged situation of conflict in Northern Ireland.

121. Even in countries which do not have an official religion, members of the minority faith have faced administrative difficulties with regard to the practice of their faith. This is reportedly the case in Egypt where Christians have had difficulties in obtaining authorization to build new churches and repair old ones. Members of the minority Jewish community in the Syrian Arab Republic have allegedly encountered problems with regard to obtaining the permission to emigrate. As already mentioned, the minority Ahmadi religious community, which considers itself to be Muslim, has reportedly been prosecuted in Pakistan because the majority of the population does not perceive it as such.

122. Proselytism is an issue which frequently arises in connection with the right of religious minorities to practise their faith. Nevertheless, it is explicitly mentioned by very few countries in their replies to the questionnaire. In an earlier response to the Special Rapporteur concerning specific issues, the Government of Greece stated that "proselytism (is prohibited) with regard to all religions including, it needs to be stressed, proselytism on the part of the Greek Orthodox Church. Within the Greek setting, proselytism has been defined as being adverse to freedom of opinion, as intruding into one's privacy ... and, perhaps, above all, as prejudicial to one's freedom of choice and personal development."

123. The Government of Malaysia informed the Special Rapporteur that "a number of laws (the Control and Restriction of the Propagation of Non-Islamic Religions enactment) have been implemented in the constituent States of Kelantan, Trengganu, Malakka and Selangor and that these laws ... are aimed at curbing the propagation of non-Islamic doctrines among Muslims". In a subsequent communication, the Government specified that "the scope of each of the enactments is limited by its substance, as can be seen by its declared objective, [which is] only to 'control and restrict the propagation of non-Islamic religious doctrines and beliefs among persons professing the religion of Islam'".

124. On the other hand, in its reply to the questionnaire, the Government of Germany indicated that "Article 4 (1) [of the Basic Law] guarantees freedom of faith and conscience ... This also includes the right to canvass support for [one's] own faith or to try and convert others."

125. On the basis of the experience he has acquired over the years, the Special Rapporteur has concluded that members of sects or religious entities which are perceived as such are the most frequent subjects of persecution for proselytism. As mentioned above, in Indonesia some minority religious communities have been described as "misleading religious cults" and have been banned as a consequence. Members of the Jehovah's Witnesses faith, whose religious tenets include preaching their religion to others, have also been persecuted in this connection in a number of countries. The incidents reported in this connection have ranged from withdrawal of legal status and confiscation of property to physical abuse and, in one reported case, death.

126. Persons belonging to minority religious communities which are not considered as sects have also been persecuted in several countries. In Nepal, persons charged with disseminating Christianity have reportedly been sentenced to six years' imprisonment; others have been beaten and threatened with more violent acts if they continued to practise the Christian faith. Persons disseminating Christianity have allegedly also been prosecuted in Turkey and the Islamic Republic of Iran.

127. Apostasy from and conversion to a different religion, even if it is an officially recognized one, may entail extremely serious consequences in a number of countries. In their replies to the questionnaire, most Governments did not deal explicitly with this issue. The majority provided general answers with regard to the freedom of religion, which may also comprise the right to change one's religion. In their replies to the questionnaire, no country stated explicitly that apostasy or converting to a different religion was illegal. Nevertheless, in the exercise of his mandate, the Special Rapporteur's attention has been drawn to the legislative provisions concerning apostasy and the individual situation of persons in a number of countries. Capital punishment is said to be applied for apostasy in Mauritania, Saudi Arabia and Sudan. The Special Rapporteur has also been informed that persons who have converted from the Muslim faith in the Islamic Republic of Iran have even been executed. Persons who had converted from the Muslim faith to Christianity in Egypt have reportedly been imprisoned and are said to have been subjected to ill-treatment. Persons have reportedly also been incarcerated for converting to Christianity in Nepal and have suffered job discrimination in the same context in India.

(d) Application of the principle of reciprocity as regards the practice of religion by foreigners

128. The Special Rapporteur was pleased to note that the majority of States reported that they did not apply this principle on their territory and that foreigners had the same rights as nationals in regard to freedom of religion, thought and conscience and enjoyed the same protection as citizens. Numerous Governments indicated that this question did not arise due to the prevailing climate of freedom. The principle of reciprocity in relation to the practice of religion has not been formally enshrined in the laws of the majority of countries that provided replies to the questionnaire.

129. In its reply, the Government of Bahrain indicated that the principle of reciprocity between States should be taken into consideration and respected in some fields. However, it does not believe that this applies to matters relating to human rights, such as freedom of religious observance. The Government of the United States of America indicated in its answer that its laws afforded equal protection to all believers and non-believers, including those who are not United States nationals, without regard to the principle of reciprocity. The Government of Switzerland stated that it does not apply the principle of reciprocity, "despite the fact that some foreign countries, on their own territory, recognize that foreigners of a different religion are free to practise their religion only in their home and in the limited setting of the family".

130. Some States limit the practice of religion by foreigners to observance of the country's laws. In its reply to the questionnaire, China indicated that "the Chinese Government respects the religious belief of foreign nationals in China and provides convenience for their normal religious activities. At the same time they are required to abide by Chinese laws and to respect the sovereign rights of the Chinese churches." The reply of the Government of Uruguay indicated that foreigners are "under a legal obligation not to form illegal assocations and to ensure that practice of their religion does not in itself entail acts contrary to the law and to public morals". The Government of Yugoslavia indicated that the only restriction was the requirement of prior notification to the local internal affairs authorities by foreign priests who wished to perform religious services in the country. The Government of Mexico stated that "anyone who is a minister of religion ... must be Mexican by birth". In its answer, the Government of Greece indicated that "the rules of international law and of the relevant international conventions are applicable to aliens under the condition of reciprocity".

131. From the experience gained over the years in the exercise of his mandate, the Special Rapporteur has observed that most countries do not apply the principle of reciprocity concerning the practice of religion by foreigners. Nevertheless, a certain number of countries which expect their citizens to enjoy the freedom of religion enshrined in the laws of countries in which they may temporarily reside do not permit the exercise of the same or similar freedoms on their own soil. For example, although half a million Christian immigrant workers reportedly reside in Saudi Arabia, the construction of Christian churches or chapels is prohibited and these persons are only allowed to practise their religion in their own homes.

(e) Conscientious objection to compulsory military service

132. The countries which responded to the questionnaire may be broadly divided into those countries, predominantly Western European, which admit conscientious objection and those which do not; a number of countries have no military service at all and thus do not have any laws regarding conscientious objection. Several countries have indicated that no cases of conscientious objection have been registered so far.

133. In the countries where conscientious objection to compulsory military service is allowed, armed service in the forces may be replaced by alternative military service in non-combat units or civilian service of benefit to the

general public, especially in the social sphere. Alternative service may also encompass charitable activities, civil defence, work in the development or environment field, or relief service abroad. In most countries, the length of the alternative service is longer than the armed military service and may amount to twice its duration.

134. In its reply to the questionnaire, the Government of Norway indicated that persons exempted from military service on the basis of their religious convictions must perform compulsory civilian service. The reply of the Government of Sweden indicates that 95 per cent of persons applying for conscientious objector status for religious reasons are granted permission to do non-combatant service. If a person's religious convictions also bar him from performing non-combatant service, the Government or a competent authority may decide to exempt him entirely or for a certain period. The Enrolment Board of the Armed Forces may not enforce military service on a conscript who is a member of the Jehovah's Witnesses.

135. In its response, the Government of Israel stated that complete exemption from military service was at present granted only to women who could prove that for reasons of conscience or religious family lifestyle they were prevented from serving in the military. In Portugal, exemption from military service on the basis of conscientious objection may be obtained in times of both war and peace and the type of civilian service performed is selected in accordance with the conscript's preferences. The reply of the Government of the United States of America stated that the United States Supreme Court "has held that the statutory exemption from military service applies to all persons who are opposed to war in any form on the basis of beliefs which are the functional equivalent of a theistic religious belief".

136. Among the countries which do not permit conscientious objection to military service, the enforcement of relevant laws is not applied with the same severity. Exceptions are usually made with regard to persons belonging to or training for certain religious professions, or persons whose faith does not allow them to bear arms.

137. In its reply to the questionnaire, the Government of Chile indicated that the State had agreed unofficially that Jehovah's Witnesses did not have to perform military service, and that "persons training to become priests, preachers or ministers in the various churches are exempt". The Government of Cuba stated that persons belonging to certain religious communities who object to bearing arms and firing weapons are employed during their military service as drivers, stretcher bearers, cooks and the like. The Government underlined, however, that such practice did not mean that their requests to be exempted from military service on grounds of conscientious objection were recognized. Although a conscript may not be exempted from military service on the basis of his religious beliefs in Switzerland, the Government indicated that persons "who would experience a serious conflict of conscience by the use of a weapon because of their religious or moral beliefs may perform service without weapons". Nevertheless, conscientious objection continues to be an offence. The reply of the Government of Uruguay indicated that the legal provisions concerning compulsory military training "have fallen into disuse because they have not been applied for over 40 years", thus reducing the likelihood of cases of conscientious objection.

138. In its answer to the questionnaire, the Government of the Ukrainian SSR indicated that "objection to military service on religious grounds is prohibited" and that "nobody may use his religious convictions as a reason for refusing to fulfil his legal obligations". The Government of Cyprus stated that conscientious objectors were considered to be deserters and faced prosecution. The Governments of Albania, Ecuador, Haiti, Tunisia, Turkey and Zimbabwe reported that no cases of conscientious objection have occurred in those counties. The Governments of a number of countries where conscientious objection to military service is not admitted stated that the performance of military service was an honour for all citizens and a sacred obligation.

139. In the course of carrying out his mandate, the Special Rapporteur has dealt with few cases of conscientious objection. These concerned ministers of the Jehovah's Witnesses faith for whom the non-performance of military service is an inherent part of their creed, as well as persons who encountered serious difficulties when their right to conscientious objection was not recognized. The criteria which the Special Rapporteur has applied in these cases are explained in the conclusions of the present report.

(f) Clashes between members of different religious denominations

140. The majority of Governments that responded to the questionnaire reported no serious confrontations between believers of different faiths. A number of them stated that such incidents had never occurred on their soil. Some stated that any disputes were limited to verbal exchanges which did not warrant the intervention of the authorities. A few described such clashes as infrequent, insignificant, not a serious problem, or as not constituting regular practice. A number of Governments explained that the absence of conflict between different religious communities was a consequence of the religious homogeneity of the population and of tolerance towards the practices of other religious communities. The majority attributed the absence of such clashes to the prevailing freedom of religion and mutual respect among religious groups. A number of Governments stated that the absence of confrontation had not made it necessary to formulate legal provisions that would regulate such incidents. Several indicated that the existing laws were adequate to ensure the undisturbed practice of religion and minimized the likelihood of any violence resulting therefrom. The comprehensive freedom of religion is always cited as a precondition for the maintenance of peaceful relations among religious communities.

141. A number of Governments provided descriptions of interdenominational conflicts which had arisen in the past as a consequence of specific historical situations and explained the legislation adopted to regulate them in this regard.

142. In its reply to the questionnaire, the Government of Yugoslavia stated that the country's historical background had made it the scene of convergence of Eastern and Western Christianity and Islam. Religious tensions and strife are said to have always existed, with varying degrees of frequency and intensity, among individual religious groups which have been widely identified with specific nations. The Government has indicated that smaller religious communities are said to not have been involved in these disputes. The Government of Switzerland indicated in its answer that clashes had occurred

in the past between two religions belonging to Western Christianity. At the time, religious orders whose religious activities were perceived as dangerous for the State or as disturbing the peace among different creeds were banned, as was the establishment of new convents or religious orders. When no clashes were reported for a very long time, the articles on religious denominations were repealed.

143. In its reply, the Government of Australia indicated that incidents of religious violence had occurred because persons practising certain religions had been victims of discrimination or violence on the basis of an imputed link with a particular ethnic background. The Government has established arrangements to investigate and deal with such incidents which include consultation with the leaders of communities that may be the victims of violence. The Government of Egypt stated that there have been "a few limited attempts to exploit criminal incidents with a view to giving them a confessional dimension".

144. Clashes between religious denominations have also occurred when these denominations have been banned for protracted periods. The Governments of Romania and the Ukrainian SSR have indicated that interdenominational conflict has involved property and status disputes between the Uniate (Greek Catholic) and the Orthodox Churches. Although the Romanian Uniate Church has recently been legalized, the Government indicated that the conflict concerning the return of its property has not yet been solved in a satisfactory manner. In the Ukrainian SSR, the revival of the two ancient branches of the Ukrainian Church, the Ukrainian Autocephalous Orthodox Church, which was banned in 1928, and the Ukrainian Greek-Catholic Church, which was banned in 1946, has reportedly not only led to disputes with regard to church property but has given rise to very serious interdenominational conflict regarding their respective spheres of influence.

145. The Government of Israel indicated in its reply that, in view of its guardianship of the holy places of important religious communities, it occupies a particular position and "sees itself entrusted with the heavy responsibility of protecting religious values, norms and places which are divinely holy for peoples all over the world". Israel perceives the "infrequency with which there are clashes between different communities on the basis of religion as a clear indication of the success of [its] policy of guaranteeing the rights of the various religious communities ...".

146. The Special Rapporteur has noted that the responses to the questionnaire provided by the Governments are frequently in contradiction with incidents of religious intolerance which have been reported to him. For example, attention has been drawn to incidents involving strife between Christian and Muslim religious communities which are said to have occurred in the Union of Soviet Socialist Republics. Serious incidents involving Christians and Muslims have allegedly occurred in Egypt and resulted in the death of a number of persons. Clashes between the Muslim and Hindu communities have reportedly occurred in India, while incidents involving members of different communities which both consider themselves Muslims have taken place in Pakistan. Incidents are also reported to have occurred between two Christian denominations in Northern Ireland.

(g) Steps taken by Governments against the expression of extremist or fanatical opinions

147. The majority of the Governments responding to the questionnaire indicated that the expression of such opinions had never taken place and that therefore no legal measures existed to counter such behaviour. The absence of extremist or fanatical opinions is attributed to the freedom of religious worship in the countries concerned, as well as to the religious homogeneity of the population. A number of Governments also invoked their obligations under international human rights instruments. Most stated that the constitution and penal code provided for adequate protection of citizens against any incidents of this nature.

148. In its reply to the questionnaire, the Government of Uruguay stated that its Penal Code had been amended to qualify as a separate offence criminal behaviour on racial or religious grounds after a very serious incident of this nature had occurred. The Government of Tunisia stated that the Press Code and the Act relating to the organization of political parties provided for penalties for insults against an "authorized religion". The Government of Canada stated that the Canadian Human Rights Act, the Criminal Code and the Radio and Television Broadcasting Regulations punished the wilful promotion of hatred against an identifiable group and prohibited the abusive treatment of an individual or group on the basis of a number of characteristics, including religion.

149. The Government of Israel stated that citizens were protected against abuses stemming from religous intransigence or intolerance by the Basic Laws, such as the Defamation Law of 1965 which is said to be an effective deterrent to public expressions of religious discrimination. The Penal Law covered offences against sentiments of religion and tradition. The Government of the United States of America indicated that the Congress had passed a bill concerning "hate crimes" arising from religious and other forms of prejudice.

150. The Special Rapporteur has noted that while he has received numerous allegations of religious intransigence and intolerance since the beginning of his mandate, there is a notable absence of reference to such occurrences in the Governments' replies to the questionnaire. Incidents of this nature which were reported to the Special Rapporteur mainly concerned occasions when the competent authorities are said to have remained inactive when unequivocally extremist or fanatical opinions were being expressed. On the other hand, the Special Rapporteur has also expressd deep concern when the author of a book expressing views considered to be offensive by followers of Islam received a death sentence from the highest authority of the Islamic Republic of Iran.

(h) Remedies available to victims of religious intolerance and discrimination

151. Most Governments indicated that basic protection in such cases is provided by the constitution, basic law and penal code and that victims of offences stemming from their religion or belief could have recourse to both domestic judicial and administrative remedies and could also address themselves to international human rights bodies.

152. A number of Governments reported the existence of governmental and non-governmental agencies for the defence, protection and promotion of human rights. Some countries had legislation which provided for complaints to be filed against public officials, under criminal law or through mechanisms created for this purpose. The Special Rapporteur noted that very few countries have established the institution of ombudsman in this connection. Some Governments stated that they had not experienced any such incidents, which accounted for the absence of specific remedies. However, a number stated that they had undertaken steps to counter possible manifestations of intransigence despite the fact that such incidents had not yet occurred. Citizens of most of these countries have recourse to ordinary courts but may also take their case to the supreme court.

153. In its reply to the questionnaire, the Government of Ecuador stated that, in addition to remedies offered by ordinary courts, the Tribunal of Constitutional Guarantees was also empowered to hear complaints filed by any natural or legal person regarding violation of the Constitution. The Government of Nicaragua stated that once the administrative remedies available through the national police had been exhausted, victims of religious intolerance could apply for amparo with the Supreme Court of Justice. The Government of Sweden replied that, in addition to prosecution under the Penal Code, the Swedish Constitution also provided for disciplinary action against officials in public service and their prosecution by the Parliamentary Ombudsman and the Chancellor of Justice. In its answer, the Government of Switzerland indicated that, after the exhaustion of internal remedies under cantonal law, violations of the Federal Constitution could be the subject of public-law action before the Federal Tribunal. The Government added that the decisions of the Federal Tribunal could be appealed upon individual petition to the European Commission of Human Rights and could lead to a judgement by the European Court of Human Rights, whose jurisdiction was recognized as legally binding on the State. In their replies, the Governments of Malta and Ireland stated that their countries had incorporated the European Convention on Human Rights into the laws under which victims of religious intolerance could seek redress after domestic judicial remedies had been exhausted.

154. In its reply to the questionnaire, the Government of Tunisia stated that offences under the Penal Code and the Press Code were directly prosecuted by the Department of Public Prosecution and that remedies could also be sought through civil proceedings. Victims of violations by an administrative act might seek remedy before the Administrative Tribunal. The Government of Swaziland indicated that only administrative bodies could play a role in the protection of freedom of religion and belief. The Government of Rwanda stated that the Council of State was empowered to cancel a decision taken by an administrative body. The Government of the United States of America indicated in its reply that protection against discrimination was ensured by the Civil Rights Act and civil action could be brought by the aggrieved persons or by the Attorney-General of the United States. In addition, a Commission on Civil Rights, with a broad mandate concerning discrimination, including that based on religion, had also been established.

155. The Government of Canada stated that the Canadian Charter of Rights and Freedoms provided that anyone whose Charter rights or freedoms had been infringed could apply to a court for an appropriate and just remedy. In addition, Canadian human rights legislation provided a wide spectrum of remedies with the Human Rights Tribunal for persons whose rights have been infringed under the Canadian Human Rights Act.

(i) Conciliation arrangements to which victims of religious intolerance may turn for protection

156. The Special Rapporteur noted that a variety of such arrangements exists. However, the countries which replied to the questionnaire did not provide a detailed description of how they are implemented. The majority of Governments merely indicated which national bodies may be considered as acting to that effect. In their answers to the questionnaire, Governments indicated that victims of religious intolerance could address themselves, inter alia, to the High Court, non-governmental organizations, private human rights commissions, professional associations or to an ombudsman. A number of coutries informed the Special Rapporteur that they envisaged the setting up of conciliation arrangements, for example the institution of ombudsman. In some countries, a conciliation role is performed by national commissions on human rights, parliamentary human rights commissions and the Office of the Attorney-General. In addition to domestic law, a number of Governments indicated that conciliation could be sought under international treaties such as the Inter-American Convention on Human Rights.

157. The Special Rapporteur has observed that countries have adopted a variety of approaches in this respect. In its answer to the questionnaire, the Government of Australia stated that the Human Rights and Equal Opportunity Commission Act empowered the Human Rights Commission to inquire into any act or practice that might constitute discrimination and to effect a conciliated settlement, and that this also applied to the the rights and freedoms recognized in international human rights instruments. The Government of Colombia stated that the Office of the Presidential Adviser for the Defence, Protection and Promotion of Human Rights served as a channel of communication for individuals and organizations addressing themselves to the State for redress of rights and that the Office of the Attorney-General could also undertake disciplinary proceedings in matters relating to human rights. The Government of Colombia also stated that municipal attorneys have been empowered to act as ombudsman in municipal committees for the defence, protection and promotion of human rights.

158. According to the Government, conciliation in Ecuador may be sought through governmental and non-governmental bodies such as the Human Rights Commission of the National Congress, the Ad Hoc Commission on Human Rights of the Court of Constitutional Guarantees, the Ecumenical Human Rights Committee, the National Human Rights Commisson and the Committee for the Defence of Human Rights in the city of Guayaquil. The Government of Canada stated that the Human Rights Commission could appoint a conciliator. In its reply to the questionnaire, the Government of Iraq indicated that, besides applying to the National Commission on Human Rights, victims of discrimination could

apply to the unions and associations of jurists, lawyers and sociologists, or to the Human Rights Association. In Tunisia, conciliation might be requested from the Tunisian League for the Defence of Human Rights and the Association for the Defence of Human Rights and Public Freedoms. The Government of New Zealand stated that victims of religious intolerance and discrimination could seek redress with the Human Rights Commission and the Equal Opportunities Tribunal. The Government of the United States of America indicated that the Commission on Civil Rights had a broad mandate to investigate and study discrimination, including that based on religion.

159. According to the answers received, conciliation may be sought through parliamentary human rights commissions in a number of countries. The Government of Luxembourg stated that there was a Petitions Commission of the Chamber of Deputies and a Litigation Committee of the Council of State. The Turkish Government indicated that there was a Human Rights Commission in the Grand National Assembly. According to the Government of the Ukrainian SSR, legislation on the freedom of conscience and religious organization was supervised by the Soviets of People's Deputies. The Romanian Government indicated that there was a Commission for Human Rights, Worship and the Problem of National Minorities, as well as a Commission for the Investigation of Abuses and for Petitions. Conciliation relating to religious activity is reportedly also dealt with by the Secretariat of State for Worship. The Government of Guinea stated that victims may address themselves to the Transitional National Recovery Council. In its answer to the questionnaire, the Government of the Islamic Republic of Iran stated that the Court of Administrative Justice investigated the complaints, grievances and objections of the people with respect to government officials and institutions. Few countries have established the institution of ombudsman. Portugal has a parliamentary ombudsman, while in Israel, the State Comptroller functions as the "Commissioner for Complaints from the Public".

(j) Desirability of revising national legislation

160. The overwhelming majority of Governments that responded to the questionnaire stated that they considered national legislation already to be in line with international human rights standards and that the existing mechanisms were adequate and effective in dealing with incidents of religious intolerance. A number of Governments stated that changes in national legislation to that effect had already taken place. However, the Special Rapporteur is particularly pleased to note that the countries which contemplated changes in legislation also welcomed the opportunity to avail themselves of the technical assistance provided by the Centre for Human Rights, especially with regard to training courses and seminars and have welcomed such initiatives as useful. Numerous Governments which thought their legislation to be in keeping with the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief thought that advice from the Centre for Human Rights would further strengthen the free practice of religion in the country. The Governments of Cuba and Israel placed the services of their officials and experts at the disposal of the Centre for Human Rights.

161. Steps being taken by countries to change their legislation are aimed at achieving conformity with international legislation relating to human rights. The countries which indicated that they were currently in the process of revising their legislation were predominantly developing countries or those which had recently undergone a change in their political and social systems. A number of countries stated that their legislation would be amended in accordance with international standards when such a need was perceived.

162. The Government of Canada indicated that relevant international human rights instruments are taken into account in interpreting Canadian law and thought it important to ensure that the major developments achieved in this domain in recent years continued. The Government of the Islamic Republic of Iran indicated that it "may revise national legislations whenever it deems it appropriate and in accordance with the principles of Islam and the Constitution". The Government of Bangladesh informed the Special Rapporteur that it had set up a Law Reform Commission with a view to reviewing all existing laws and submitting recommendations to the Government. The Government of the Ukrainian SSR deplored the absence of an international legal mechanism or treaty guaranteeing religious rights and freedoms, stating that as important as the provisions of the Declaration are, "they need to be couched in legally binding terms so that States could be called to account under international law if they [are] violated".

(k) Advisory assistance from the Centre for Human Rights

163. The Special Rapporteur is pleased to note that the majority of Governments expressed their readiness to avail themselves of such assistance. Furthermore, a few "did not rule out the value of taking advantage" of such services. The Special Rapporteur is particularly gratified to note that the Governments of several countries which consider that their citizens enjoy freedom of worship on a broad basis nevertheless indicated their firm wish to learn more and expressed their readiness to avail themselves of the expertise of the Centre for Human Rights.

164. Requests which were received, principally from developing countries, concerned the strengthening of legal institutions and the organization of courses and seminars for officials such as legislators, judges, lawyers, law enforcement officials, educators, members of parliament, etc. on the principles, rules and remedies applicable to freedom of religion and belief and on human rights. The Government of Chile expressed its interest in obtaining information specifically concerning legal systems "which more effectively guarantee conscientious objection and, hence, freedom of conscience". Although it expressed its willingness to participate in courses or seminars organized by the Centre for Human Rights relating to freedom of religion and belief "that may be of assistance to officials in this country, or in which such officials might share their experience in this area with officials from other countries seeking to exchange knowledge", the Government of Canada suggested that resources could be put to better use "for assistance to those countries in which there is a history of restriction related to freedom of religion and belief".

IV. CONCLUSIONS AND RECOMMENDATIONS

165. This is the sixth consecutive year that the Special Rapporteur has examined, under the mandate entrusted to him by the Commission on Human Rights, incidents and governmental measures reported to be inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. He has been particularly gratified by the confidence placed in him by the Commission, which extended his mandate for an additional two years in 1990, as well as by the interest of the States members of the Commission in his mandate.

166. During the period covered by this report, the Special Rapporteur has continued to receive allegations of infringements of the rights and freedoms set out in the Declaration occurring in practically all regions of the world and is concerned at their persistence. He has continued to gather information regarding the factors which impede the implementation of the principle of tolerance in matters of religion or belief and is pleased to have maintained a constructive dialogue with Governments in searching for clarifications on specific incidents or cases which concern them. He considers the spirit of cooperation shown by the Governments in the implementation of his mandate as a particularly encouraging development.

167. The practice of intolerance and discrimination based on religion and belief has continued to occur during the past year throughout the world in countries with varying degrees of development and different political and social systems. It concerns the rights enshrined in almost all of the provisions of the Declaration, namely, the right to have the religion or belief of one's choice, the right to manifest and practice one's religion in public and in private, the right to change one's religion or belief, the right not to be subjected to discrimination by any State, institution or group of persons on the grounds of religion or other beliefs, the right to teach a religion or belief in places suitable for these purposes, the right to make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief, the right of parents to bring up children in accordance with the religion or belief of their choice, the right to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief and the right to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief.

168. The infringement of the above-mentioned rights undermines the integrity and dignity of the human person and also threatens the enjoyment of other fundamental human rights and freedoms. The allegations received in the course of this reporting period concern acts of discrimination violating rights enshrined both in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as other international human rights instruments, and refer in particular to the right to life. In addition to the right to freedom of thought, conscience, religion and belief, including those of religious minorities, they include the right to liberty and security of the person, to physical integrity, the right not to be subjected to torture and other cruel, inhuman or degrading treatment

or punishment, the right to freedom of expression, to take part in public life, to education, to freedom of movement and the right not to be arbitrarily arrested or detained.

169. The Special Rapporteur has noted that the acts of intolerance and discrimination with regard to religion or belief have continued to be varied during the period covered by this report. He has also noted the persistent universality of the phenomenon in view of the fact that the allegations concerning specific incidents of infringement of the rights and freedoms set out in the Declaration are not confined to a particular faith or geographical area. They range from extra-judicial killings of members of the clergy to the prohibition of certain specific manifestations relating to a particular religion or belief.

170. Acts of discrimination and intolerance also encompass the repression of any manifestation of certain religions or beliefs, both in public and in private; confrontation between followers of different faiths; sanctions for belonging to a specific denomination or faith such as enforced disappearances and abduction of followers of a particular denomination; confinement to labour camps; sanctions against, prohibition of and persecution for proselytizing and converting to another religion; refusal to register certain religious communities; arbitrary imprisonment; physical and mental persecution; destruction, evacuation and arbitrary occupation of places of worship or assembly for a religion or belief; prohibition of opening places of worship; refusal to grant permits to build new places of worship or to repair existing premises; restriction of religious ceremonies to specified places; desecration of places of worship and burial places; prohibition of publishing or distributing publications relating to a particular religion; censoring of religious publications and sermons; prohibition of exhibiting or distributing of certain articles of worship and religous texts; and restrictions on the right to appoint clergy, as well as cases relating to conscientious objection on the basis of religious beliefs.

171. The Special Rapporteur has noted that the denial of certain legal guarantees such as the right to a trial in conformity with international standards of a fair trial and the right of legal recourse, as well as the refusal to accord legal compensation to injured parties or issue passports are a recurrent phenomenon. Discrimination on grounds of religion or belief may also result in administrative measures, such as the withdrawal of ration booklets, exclusion from public service, cessation or denial of pension payments, denial of access to employment, to social security and higher levels of education. In some cases, children are not allowed to receive religious education outside the family circle. In others, mandatory religious instruction may concern a different faith than the one to which the persons receiving instruction belong.

172. Despite the persistence of the above-mentioned negative trends, the Special Rapporteur was pleased to note the continued progress made by a certain number of countries in the sphere of religious freedom. The positive developments which have taken place in recent years in Eastern Europe have gained ground and have been further affirmed. The Special Rapporteur is particularly satisfied to note the changes certain countries have introduced in their constitutional and legal systems with a view to bringing them into

greater accord with international standards concerning the freedom of religion or belief. He was satisfied to note the positive impact of such trends on the Law on the Freedom of Conscience and Religious Institutions of the Union of Soviet Socialist Republics, particularly with regard to the legal personality and registration of religious entities, which has resulted in the legalization of those generally depicted as sects.

173. The Special Rapporteur was particularly pleased to note the significant changes with regard to the rehabilitation of religion and the freedom of religious practice which have occurred in Albania during the period under review. He also welcomes the restoration of the legal status of a number of Christian denominations in other Eastern European countries and expresses the hope that conflicts concerning the retrocession of their property will be solved in a satisfactory manner. The Special Rapporteur is also pleased to note that problems with an ethnic dimension which also had a bearing on religious discrimination in Bulgaria appear to have been solved. A number of countries in Eastern Europe have reintroduced Christmas as a public holiday or are in the process of doing so and are also examining the question of the retrocession of church property. The new climate of religious freedom is also reflected in the significant increase in the number of baptisms of both children and adults in these countries.

174. The Special Rapporteur has also noted that large international gatherings of Christian youth have been organized in Poland, where religious instruction in schools has been reintroduced. This is also the case in the Czech and Slovak Republic where members of religious orders may also operate orphanages and provide assistance to hospitals. In addition, a number of Eastern European countries have established official relations with the Holy See, which has invited a number of Christian denominations from these countries to participate in gatherings it has organized. The Special Rapporteur expresses the hope that the newly created climate of religious freedom in Eastern Europe will further enhance the dialogue between different denominations, as well as a dialogue between and greater understanding of different faiths.

175. During the period under review, acts of religious discrimination have continued to occur both in countries which have an official religion and those which do not, in countries with a single dominant religion, as well as in countries where many religions co-exist. They are caused by a diversity of factors often deriving from complex historical processes which interfere with the freedom of worship and may be political, economic, social or cultural in nature. The complexity of these factors is often compounded by dogmatic and sectarian intransigence and may result in the curtailing of a wide variety of human rights. Although the Constitution and basic laws of most countries protect freedom of thought, conscience, religion and belief, legislative obstacles to tolerance are often the result of contradictions between constitutional provisions and other laws or administrative decrees, which may entail measures and actions that are inconsistent with the provisions of the 1981 Declaration.

176. The Special Rapporteur has noted with concern the developments in matters relating to the freedom of religion or belief which occurred during the period under review as a result of the Gulf crisis. His attention was drawn to a number of specific incidents which occurred in relation to the members of the

majority Shia religious community in Iraq and constitute an infringement of the provisions of the Declaration. They range from the enforced disappearance of numerous clergy and members of their families to the destruction and desecration of shrines, places of worship and cemeteries.

177. The Special Rapporteur has also noted with concern that members of the clergy belonging to various Christian denominations have continued to be subjected to intimidation and death threats and have been killed in a number of countries. Although it may sometimes be difficult to determine whether such persecution is based on religious or political motives, the Special Rapporteur nevertheless transmitted allegations concerning such incidents to the Governments of countries in which they had occurred with a view to obtaining clarifications. On the other hand, in connection with Commission resolution 1991/29, his attention was drawn to the situation of members of the Catholic clergy in Peru engaged in social work with underprivileged segments of the society who have been attacked and killed by members of armed groups that spread terror among the population.

178. The Special Rapporteur has also taken due note of resolution 1991/70, in which the Commission requested representatives of United Nations human rights bodies to continue to take urgent steps, in conformity with their mandates, to help prevent the occurrence of intimidation or reprisal as well as prevent access to United Nations human rights procedures being hampered in any way. However, during the period under review, no specific incidents or cases falling within the purview of resolution 1991/70 were reported to the Special Rapporteur.

179. Since his appointment, the Special Rapporteur has been collecting information regarding constitutional and legal guarantees of the freedoms enshrined in the 1981 Declaration and the measures taken by States to combat intolerance, as well as incidents and governmental actions which might be inconsistent with the provisions it contains. He has received this information from Governments, non-governmental organizations, as well as other, religious and lay, sources. As the Special Rapporteur already indicated in his previous report, the quantity and variety of this information has prompted him to select a number of questions which he considers of particular relevance to his mandate in order better to clarify certain situations which have been recurrent over the years. As indicated in chapter III of the present report, on 25 July 1990 he addressed a questionnaire containing 11 questions to all Governments with a view to finding out how they deal with such situations in their legislation and judicial and administrative practice. Section B of chapter III contains an analysis of their replies.

180. The Special Rapporteur expresses his sincere gratitude to the Governments which have provided answers to the questionnaire and greatly appreciates their valuable cooperation in helping him carry out his mandate. The responses he has received range from direct answers to the questions he asked to general replies and those containing excerpts from relevant constitutional and legal provisions. The Special Rapporteur is particularly grateful to the Governments which provided definitions and detailed answers to every question. On the other hand, a number of answers were so brief as not to allow for conclusive insight into a Government's position regarding a specific issue.

181. Notwithstanding the inherent difficulty of providing a legal definition of religions, religious sects and religious associations, the Special Rapporteur noted that the majority of countries tended to adopt a neutral stance with regard to this issue and did not indicate the distinction made between them but limited themselves to enumerating the conditions required for their registration. The few relatively specific answers indicated a negative connotation attached to the notion of religious sects. This absence of precise definitions contrasted sharply with the Special Rapporteur's experience concerning so-called sects where these religious entities have not only been depicted in derogatory terms, but were openly persecuted and denied legal status on account of financial fraud, proselytism, heresy or simple lack of acceptance. Irrespective of the controversy which "sects" or "new religious movements" have caused in recent years, the Special Rapporteur maintains the position he adopted previously in carrying out his mandate, namely that the 1981 Declaration is the best instrument at the disposal of the international community allowing for a distinction to be made between legal and illegal practices of religious entities.

182. Replies to the questionnaire came from countries which offer a very broad representation of religions, civilizations and cultures. The Special Rapporteur noted that not all of them view the notion of believers and non-believers (freethinkers, agnostics and atheists) in the same way. Although the majority of replies attested to freedom of religious worship, only Western countries specifically referred to the "negative freedom" of holding no religious beliefs. In carrying out his mandate, the Special Rapporteur has come across instances where even persons belonging to a different school of the same religion were considered as inferior or infidels. He is of the opinion that the same principles of tolerance should apply to believers and to non-believers, who should not be discriminated against. Their rights should also be guaranteed in any new international instrument on the elimination of intolerance and discrimination based on religion or belief.

183. Despite the generally liberal attitude with regard to religious minorities that became apparent from most of the answers, the Special Rapporteur has once again noted the contrast with the hardships encountered by members of religious minorities, especially in countries with an official or clearly predominant majority religion. The attitude depended to a large extent on how the minority in question was viewed in doctrinal terms, which had a direct bearing on its juridical status. The Special Rapporteur has noted from experience, however, that even in the case of "recognized" religions, a ranking of sorts could nevertheless be observed in a number of countries. On the basis of the allegations submitted to the Special Rapporteur, in most countries where Islam is the predominant or official religion and where the Sharia (Islamic Law) prevails, proselytism and apostasy were particularly sensitive issues. On the other hand, he was pleased to note that some countries had formulated very specific legal dispositions to protect religious minorities. He believes that the 1981 Declaration provides clear guidelines in this respect.

184. The Special Rapporteur was pleased to note that most Governments do not apply the principle of reciprocity to foreigners in matters of religion or belief, even if they are aware that their own citizens may not enjoy the same

degree of religious freedom in countries in which they temporarily reside. However, he also noted the intransigent attitude of some Governments, which deny certain rights and freedoms to citizens of countries that they expect to grant full religious freedom to their own co-religionists.

185. The Special Rapporteur has dealt with several cases of conscientious objection in the exercise of his mandate, in accordance with the provisions of the Declaration. He felt that it would be appropriate to establish a set of criteria regarding this issue. The responses to the questionnaire provided additional insight which helped him to formulate his views on the matter more precisely. Conscientious objectors should be exempted from combat but could be required to perform comparable alternative service of various kinds, which should be compatible with their reasons for conscientious objection, should such service exist in their country. To avoid opportunism, it would be acceptable if this service were at least as onerous as military service, but not so onerous as to constitute a punishment for the objector. They could also be asked to perform alternative service useful to the public interest, which may be aimed at social improvement, development or promotion of international peace and understanding. Conscientious objectors should be given full information about their rights and responsibilities and about the procedures to be followed when seeking recognition as conscientious objectors, bearing in mind that application for the status of conscientious objector has to be made within a specific time frame. The decision concerning their status should be made, when possible, by an impartial tribunal set up for that purpose or a by regular civilian court, with the application of all the legal safeguards provided for in international human rights instruments. There should always be a right to appeal to an independent, civilian judicial body. The decision-making body should be entirely separate from the military authorities and the conscientious objector should be granted a hearing, and be entitled to legal representation and to call relevant witnesses.

186. The Special Rapporteur noted that most countries did not consider the expression of extremist or fanatical opinions as occurring frequently on their soil, which presents a pronounced contrast with the allegations regarding such incidents that he has received since the beginning of his mandate. He was pleased to note, however, that a number of countries had taken very specific steps to curb the expression of extremist or fanatical opinions and have also invoked their obligation to do so under the international human rights instruments to which they had adhered. What the Special Rapporteur found disquieting, on the other hand, was instances when extremist opinions had been voiced publicly by Governments themselves and when the authorities had not taken timely measures to prevent the expression of such opinions where they were in a position to do so.

187. The Constitutions or basic laws of most countries implicitly or explicitly provide for protection from intolerance and discrimination based on religion or belief. In addition, such acts are considered criminal offences in numerous countries. The existence of such provisions was often cited as being a sufficient deterrent for such acts, even when they did not cover all the freedoms enshrined in the Declaration. Despite the difficulties involved in attempting to make a comparative assessment of country legislation, the Special Rapporteur noted that very few countries had introduced specific judicial and administrative remedies of which victims of acts of religious

intolerance could avail themselves, nor had they established the corresponding mechanisms for that purpose. Despite the existence of national human rights commissions in numerous countries, he also noted the absence of conciliation arrangements created specifically for victims of religious intolerance. In the opinion of the Special Rapporteur, countries which have not already done so to a sufficient extent could incorporate the existing international human rights standards into their Constitution, basic law and penal code in a more comprehensive manner and could envisage the creation of bodies and institutions dealing specifically with conciliation in matters of religious intolerance. He was particularly gratified to note the changes to that effect which have taken place and are still taking place in the countries of Eastern Europe.

188. The Special Rapporteur was also particularly pleased to note and considers very encouraging the number of Governments which have expressed their readiness to receive technical and advisory assistance from the United Nations Centre for Human Rights, regardless of whether or not they considered their legislation as being already in line with the principles set forth in the Declaration. He hopes that this will give new impetus to the cooperation he has been able to develop with many Governments regarding issues which fall within the scope of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

189. The Special Rapporteur was very pleased and grateful once again to benefit from the continued cooperation of non-governmental organizations during the period under review. The detailed information they have provided has been of considerable assistance to him in the exercise of his mandate. He also welcomes as very encouraging the constructive approach and openness of a number of Governments which have shown a growing interest in the issues within his frame of reference, as well as a willingness to find a solution to them through a continued dialogue with the Special Rapporteur.

190. The Special Rapporteur is aware that the protection and promotion of the rights and freedoms enshrined in the 1981 Declaration continues to be a long-term undertaking in view of the complexity of underlying factors that generate situations inconsistent with its provisions. The specific features of such situations cannot be considered in isolation as they may be linked to socio-economic and other inequalities which hamper the enjoyment of these rights. Although he is aware how difficult it may be to overcome the distrust between members of different denominations, which are often rooted in complex historical processes, the Special Rapporteur is of the opinion that the maintenance of inter-faith dialogue is of the greatest importance in overcoming sectarian and intransigent attitudes and in increasing religious tolerance throughout the world. He also hopes that the recent establishment of democracy in many countries will also contribute to its reinforcement.

191. As he has already indicated in his previous reports, the Special Rapporteur is of the opinion that States should continue actively to consider the usefulness of preparing a binding international instrument on the elimination of intolerance and discrimination based on religion or belief. In addition, as recommended by Mr. Theo van Boven, expert of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in his working paper (E/CN.4/Sub.2/1989/32), this instrument should build on the standards

already elaborated by the international community. The Special Rapporteur therefore urges States which have not already ratified the relevant international human rights instruments to do so and to make use of the machinery already available for monitoring their implementation.

192. In addition, States should constantly monitor possible violations of the right to freedom of religion and belief and should endeavour to adapt their legislation to existing international standards, in particular the 1981 Declaration. In order to combat acts of religious intolerance and discrimination, they should establish the necessary constitutional and legal guarantees to protect the rights enshrined in the Declaration and should also envisage the introduction of appropriate mechanisms to ensure the effective implementation of these norms. The Special Rapporteur has noted the discrepancies that often exist between general provisions and the texts of laws and administrative decrees, which may result in measures infringing the right to freedom of religion and belief.

193. In the light of the answers to the questionnaire that he has received from Governments, the Special Rapporteur is of the opinion that more decisive steps ought to be taken worldwide to introduce effective administrative and judicial remedies, of which victims of religious intolerance and discrimination should be able to avail themselves in the event of violation of the rights set out in the Declaration. These legal remedies should be clearly defined and should be particularly concerned with penalizing incidents and measures inconsistent with the standards concerned. The replies to the questionnaire have also pointed to the necessity to create national institutions to promote tolerance in matters of religion and belief, as well as the need to establish conciliation arrangements and other mechanisms dealing with disputes arising from acts of religious intolerance.

194. The Special Rapporteur would like to underline the importance of promoting ideals of tolerance and understanding in matters of religion and belief through education by introducing national and international human rights standards in school and university curricula and through the training of the teaching staff. The advisory services and technical assistance offered by the Centre for Human Rights could make a very important contribution in this regard. The Special Rapporteur finally wishes to emphasize the significant role of media briefings and information seminars aimed at the broadest possible dissemination of the principles set out in the 1981 Declaration in encouraging greater understanding and tolerance as regards religion and belief.
